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ABSTRACT

On January 13, 1972, the subcommittee resumed its hearings on land ownership, agribusiness, and agrigovernment in California. Witnesses testified on: (1) the impact of land use, ownership, and distribution on farmworkers, farmers, and consumers; (2) the national policy of land ownership and distribution; (3) California's water project and reclamation program; (4) the role of unions and legislation in relation to migrant workers; (5) farm credit and financing: (6) the role of Sunkist Growers as a grower-owned cooperative in the chain of events occurring in the marketing of all varieties of citrus from California and Arizona; (7) the history, operations, and problems of the California Canners and Growers; (8) the role of Central Coast Counties Development Corporation in establishing the Co-operativa Campesina, a strawberry cooperative; (9) general problem areas affecting the rural poor, particularly the migrant laborer and his family; (10) the policies and efforts (administrative and bureaucratic) of Federal agencies responsible for providing rural programs; (11) economic development needs in rural areas; (12) the reform of national policies; and (13) problems of rural America and possible strategies for change. Among the witnesses were representatives from the United Farm Workers Organizing Committee, California Farmer-Consumer Information Committee, and U.S. Bureau of Reclamation. (NQ)

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FARMWORKERS IN RURAL AMERICA, 1971–1972

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HEARINGS

BEFORE THE

SUBCOMMITTEE ON MIGRATORY LABOR

OF THE

COMMITTEE ON
LABOR AND PUBLIC WELFARE
UNITED STATES SENATE

NINETY-SECOND CONGRESS

FIRST AND SECOND SESSIONS

ON

LAND OWNERSHIP, USE, AND DISTRIBUTION

JANUARY 13, 1972
SAN FRANCISCO, CALIF.

PART 3C

U.S. DEPARTMENT OF HEALTH,
EDUCATION & WELFARE
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FORMAT OF HEARINGS ON FARMWORKERS IN RURAL AMERICA

The Subcommittee on Migratory Labor conducted public hearings in Washington, D.C., and in San Francisco and Fresno, Calif., during the 92d Congress on "Farmworkers in Rural America." These hearings are contained in the following parts:

Subject matter	*Hearings dates*
Part 1: Farmworkers in Rural Poverty	July 22, September 21 and 22, 1971.
Part 2: Who Owns the Land?	November 5, 1971.
Part 3: Land Ownership, Use, and Distribution:	
A. San Francisco	January 11, 1972.
B. Fresno	January 12, 1972.
C. San Francisco	January 13, 1972.
Part 4: Role of Land-Grant Colleges:	
A	June 19, 1972.
B	June 20, 1972.
Part 5: Appendix: A and B.	

CONTENTS

CHRONOLOGICAL LIST OF WITNESSES

THURSDAY, JANUARY 13, 1972

Page
Wood, Betsy, home economist, Berkeley Consumers Cooperative, Richmond Calif. 1627
Haugen, Miss Borghild, executive director, California Farmer-Consumer Information Committee, Santa Clara, Calif. 1633
Waldie, Hon. Jerome R., a Representative in Congress from the State of California 1649
Brody, Ralph M., general manager, Westlands Water District, Fresno, Calif. 1665
Towner, Porter A., chief counsel, Department of Water Resources, San Francisco, Calif. 1673
Pafford, Robert J., Jr., Regional Director, Region 2, U.S. Bureau of Reclamation 1682
Huerta, Miss Dolores, vice president, United Farm Workers Organizing Committee, Delano, Calif. 1766
Lowery, James, director, Center for New Corporate Priorities, Los Angeles, accompanied by Ed Scanlon 1798
Anderson, Curtis, manager, Grower Relations Department, Sunkist Growers, Inc., Sherman Oaks, Calif. 1843
Sullivan, Jack, chairman of the board, California Canners and Growers, San Francisco, Calif. 1855
Kirkpatrick, David H., on behalf of Central Coast Counties Development Corp., accompanied by Manuel Santana, Alfred Navarro, Tereso Morales, and Juan Godines 1872
Blaustein, Arthur, Economic Development Center, University of California, Berkeley, Calif. 1884
Barnes, Peter, west coast editor, the New Republic, San Francisco, Calif. 1941
Greene, Sheldon L., general counsel, California Rural Legal Assistance 1972

STATEMENTS

Anderson, Curtis, manager, Grower Relations Department, Sunkist Growers, Inc., Sherman Oaks, Calif. 1843
Prepared statement 1847
Barnes, Peter, west coast editor, the New Republic, San Francisco, Calif. 1941
Prepared statement with enclosures 1949
Blaustein, Arthur, Economic Development Center, University of California, Berkeley, Calif. 1884
Prepared statement 1904
Brody, Ralph M., general manager, Westlands Water District, Fresno, Calif. 1665
Prepared statement 1671
Gnaizda, Robert, Esq., public advocates, San Francisco, Calif., January 11, 1972, prepared statement 1975
Greene, Sheldon L., general counsel, California Rural Legal Assistance 1972
Prepared statement with enclosure 1991
Haugen, Miss Borghild, executive director, California Farmer-Consumer Information Committee, Santa Clara, Calif. 1633
Prepared statement 1635

page IV is a blank page

Page
Huerta, Dolores, vice president, United Farm Workers Organizing Committee, Delano, Calif. 1766
  Prepared statement with enclosures 1781
Kirkpatrick, David H., on behalf of Central Coast Counties Development Corp., accompanied by Manual Santana, Alfred Navarro, Tereso Morales, and Juan Godines 1872
  Prepared statement 1881
Lowery, James, director, Center for New Corporate Priorities, Los Angeles, accompanied by Ed Scanlon 1798
  Prepared statement wth attachments 1810
Morse, Hon. Wayne, of the State of Oregon 1699
Near, Gary J., professor of law, University of San Francisco, prepared statement 1714
Pafford, Robert J., Jr., regional director, Region 2, U.S. Bureau of Reclamation 1682
  Prepared statement 1686
Sullivan, Jack, chairman of the board, California Canners and Growers, San Francisco, Calif. 1855
  Prepared statement 1857
Towner, Porter A., chief counsel, Department of Water Resources, San Francisco, Calif. 1673
  Prepared statement 1678
Waldie, Hon. Jerome R., a Representative in Congress from the State of California 1649
  Prepared statement 1654
Wood, Betsy, home economist, Berkeley Consumers Cooperative, Richmond, Calif. 1627
  Prepared statement 1629

ADDITIONAL INFORMATION

Articles, publications, etc.:

"A Southern Land Bank Proposal," by Robert S. Browne, Black Economic Research Center for the Center for Community Economic Development, Cambridge, Mass., April 1970 2060
"Land Reform: A Bibliography," by Florence Contant, Center for Community Economic Development, Cambridge, Mass., February 1972 2049
"Land Reform: A New Group Helps Poor Retain Their Land," by Shimon Gottschalk, from the South Today, October 1971 2058
"OEO Grant to Pic'n Pac Farm Workers Raises Many Questions," by Allan Grant 2077
"The Family Farm is the Most Efficient Unit of Agricultural Production," by Angus McDonald, December 29, 1967 2067
Miscellaneous newspaper articles 2079

Pertinent court cases:

U.S. District Court for the Southern District of California, United States of America, Plaintiff, v. *Imperial Irrigation District, a corporation, Defendants,* March, 29, 1971 1722
U.S. District Court for the Southern District of California, United States of America, Plaintiff, v. *Imperial Irrigation District, a corporation, Defendant,* January 5, 1971 1750
U.S. District Court of the Eastern District of California, United States of America, Plaintiff, v. *Tulare Lake Canal Company, a corporation, Defendant,* January 6, 1972 1764
Yellen, et al. v. *Walter J. Hickel,* individually and as Secretary of the Interior, et al., October 2, 1972 2119

FARMWORKERS IN RURAL AMERICA, 1971–1972

(LAND OWNERSHIP, USE, AND DISTRIBUTION)

THURSDAY, JANUARY 13, 1972

U.S. SENATE,
SUBCOMMITTEE ON MIGRATORY LABOR OF THE
COMMITTEE ON LABOR AND PUBLIC WELFARE,
San Francisco, Calif.

The subcommittee met, pursuant to notice, at 9 a.m., in the Ceremonial Courtroom, 19th floor, Federal Building, 450 Golden Gate Ave., Hon. Adlai E. Stevenson III (chairman of the subcommittee) presiding.

Present: Senators Stevenson and Taft.

Committee staff members present: Boren Chertkov, counsel; Eugene Mittleman, minority counsel; Basil Condos, professional staff member; and, Julia Weatherman, staff member.

Senator STEVENSON. The hearings of the Senate Subcommittee on Migratory Labor will now come to order.

This is the third and final day of our hearings on land ownership, agribusiness, and agrigovernment in California.

The first witnesses this morning are Miss Borghild Haugen, executive director of the California Farmer Consumer Information Committee, Santa Clara, and Betsy Wood, a representative of the Berke-Wood from the Co-op.

Miss HAUGEN. Mr. Chairman, I am Miss Haugen and this is Betsy Wood from the co-op.

Senator STEVENSON. We are glad to have you here this morning. If you have prepared statements, we could enter them in the record and you could summarize them or, if you prefer, you may read your statements.

STATEMENT OF BETSY WOOD, HOME ECONOMIST, THE BERKELEY CONSUMERS COOPERATIVE, RICHMOND, CALIF.

Mrs. WOOD. My statement is short and I am testifying basically on one point.

I am a home economist at the Berkeley Co-op. Our Co-op is owned by 62,000 member bay area families. We have nine shopping centers, and we do sell about $36 million a year in groceries; that is our principal business, grocery stores. We have eight part-time home economists who work right in the stores. I happen to be right next to the frozen food case and across from the baby food, my counter. We help shoppers with any kinds of problems they have, nutrition and shopping, food budgeting, and what-have-you. I might say we are very independent; we are not there to sell.

One would think that mass production methods of growing, processing, and marketing could logically result in economies in the cost of bringing food to consumers. It seems to me reasonable to suppose that firms that advertise nationally would be able to take advantage of many economies and have greater savings than small firms that are less efficient, have less up-to-date machinery, less mass merchandising in general. Actually, this isn't so. I think we all know that in the grocery store nationally advertised brands cost more than so-called private labels. A private label is the label that is produced for a group of grocery stores, in our case a co-op, a chain, a wholesaler, or what-have-you. Our estimates are that consumers pay about 15 percent more for national brands than private labels. These figures range tremendously, from about 2 percent per item to 40 percent.

Last week I selected these items from our shelves just to demonstrate this spread. I don't mean to emphasize the spread of our Co-op, but it is the same in Safeway, Lucky, A. & P. and what-have-you. I would be glad to open any of those you would like to sample, orange juice or anything else. I think that the quality is comparable in all of them.

The list of the items and prices is attached to my statement. This is a list of 21 items, more or less picked at random. I tried to be fair.

When we studied the difference several years ago, we found that several hundred had a 15 percent difference there, too. Actually, my prepared statement should say that the Co-op label in this group costs about 16 percent less than the national brands in this group. Consumers Union in 1961 studied national brands and they said that an average family could save about $200 a year by using other than national brands.

The National Commission on Food Marketing also studied 10 items in 11 retail chains and they found a difference of 21.5 percent.

In our store Co-op members have confidence in Co-op labels. Sometimes we eliminate national brands altogether. Often the Co-op label outsells other national brands. I think this is also true in many chains.

One of the sad things is that people with little education and little money often are unduly influenced by national brands, and they are the ones who are more apt to pay the increased cost, and usually with no difference in quality.

In summary, nationally advertised brands are clearly more costly to the consumer, and I think we can say that, in this case, large-scale farming, large-scale processing, marketing for the national brands has not resulted in savings to the consumer.

Thank you.

Senator STEVENSON. Thank you, Mrs. Wood.

(The prepared statement of Mrs. Betsy Wood follows:)

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STATEMENT TO:

MIGRATORY LABOR SUBCOMMITTEE
OF THE
UNITED STATES SENATE
COMMITTEE ON LABOR AND PUBLIC WELFARE

OPEN INVESTIGATIVE HEARING
ON THE
NATIONAL POLICY IMPLICATIONS OF
THE IMPACT OF
LAND USE, OWNERSHIP, AND DISTRIBUTION
ON FARMWORKERS, FARMERS AND CONSUMERS

SAN FRANCISCO, CALIFORNIA January 13, 1972

My name is Betsy Wood. I am a home economist with the Consumers Cooperative of Berkeley. Our Co-op is owned by 62,000 member-families in the Bay Area. We have 9 shopping centers, with grocery stores doing an annual volume of 36 million dollars. We have 8 part-time home economists working right in our stores, helping our members to shop better and eat better.

One would think that mass production methods of growing, processing and marketing food would logically result in economies in the cost of bringing food to the consumer. It is reasonable to suppose that firms that advertise nationally would be able to take advantage of many savings and therefore could get food to consumers at prices lower than small firms with less volume, less up-to-date machinery, smaller research staffs and generally less efficient methods. Actually the reverse is true. In the grocery store the nationally advertised brands cost shoppers considerably more than private label food of comparable quality. Our estimates are that consumers pay about 15% more for national brands. The figure for individual items may range from 2% to 40% or more.

foods · hardware-variety · pharmacy · service stations · garage · books · credit union · health plan · insurance · funeral society

Last week I selected items at random in one of our stores to demonstrate the cost spread. To my knowledge the quality of Co-op label and these nationally advertised brands is comparable. I would be glad to open any you wish to see. In this list, the cost of the national brand foods average about 16% more than the Co-op label foods. When we studied several hundred pairs of food items about 5 years ago, we found a 15% difference.

This difference between private label and national brands is typical of many food chains. We have made price surveys of local Safeway stores and the difference in price is similar to that in Co-op stores. Several years ago Consumers Union estimated that an average family could save approximately $200 per year by buying private label rather than national brands.

The National Commission on Food Marketing studied prices on ten high volume items in eleven retail chains and found that the price for the most popular advertised brands averaged 21.5% higher than the comparable private label item.*

Our Co-op members have confidence in Co-op label merchandise. In most departments Co-op label outsells National brands, so much so that sometimes National brands are dropped altogether. We have a program to bring price per pound information to our members. One chart lists the cooking and salad oil our stores carry, and for some members this dramatizes the cost differences. However, studies have shown that low income people and those with little education tend to buy nationally advertised brands instead of the less expensive private labels. People with little education are more apt to be influenced by brand advertising than those with more education.

In summary, nationally advertised brands clearly cost the consumer more than private labels.

---

* Private Label Products in Food Retailing, National Commission on Food Marketing, Technical Study - No. 10, 1966 pp. 65,66.

Comparison of National Brand and Private Label Foods in Berkeley Co-op
Selected 1/7/72

Item	Private Label	National Brand
Dry Milk 2 lb.	1.29 Co-op	1.54 Carnation
Quick Oats 18 oz.	.35 "	.39 Quaker
Vermicelli 16 oz	.25 "	.26 Golden Grain
Blackeyes 2 lb.	.49 "	.57 Golden Grain
Corn Oil Quart	.80 "	.85 Mazola
Flour 5 lb.	.50 "	.63 Gold Medal
Catsup	.21 "	.24 Del Monte
Mayonnaise Qt.	.53 "	.72 Best Foods
Tomato Juice 46 oz.	.30 "	.36 Hunts
Dill Pickles 22 oz.	.49 "	.53 Del Monte
Fruit Cocktail 28 oz.	.41 "	.43 Del Monte
Milk, Evaporated 13 Fluid	.17 "	.20 Pet
Apricot Halves 16 oz.	.24 "	.34 Del Monte
Grape Jelly 20 oz.	.47 "	.53 Welch
Corn, whole kernel 16 oz	.20 "	.27 Del Monte
Peaches, Freestone, sliced 16 oz.	.28 "	.37 Del Monte
Applesauce, Gravenstein 16 oz.	.24 "	.28 Del Monte
Cranberry Sauce, whole 16 oz.	.28 "	.29 Ocean Spray
Canned Peas 16 oz.	.22 "	.27 Del Monte
Frozen Green Beans 9 oz.	.22 "	.31 C & W
Frozen Orange Juice 6 oz.	.22 "	.31 Minute Maid
Total, 21 Items	8.16	9.69

Savings with private label $1.53 or 16%

T-9

OIL

Cost per Pint

	WEIGHT	BRAND	PRICE PER ITEM	COST PER PINT
SOY BLENDS	48 oz.	Co-op Salad Oil	$ .89	$ .30 *
	38 oz.	Co-op Salad Oil	.71	.30
	24 oz.	Co-op Salad Oil	.45	.30
	48 oz.	Crisco Oil	1.14	.38
	24 oz.	Crisco Oil	.58	.39
	128 oz.	Evergood Salad Oil	2.35	.29 *
	12 oz.	Hain Garlic 'n Oil	.76	1.01
	128 oz.	Wesson Oil	2.63	.33
	48 oz.	Wesson Oil	1.05	.35
	32 oz.	Wesson Oil	.73	.37
	24 oz.	Wesson Oil	.55	.37
	16 oz.	Wesson Oil	.42	.42
	16 oz.	Wesson Buttery Flavor Oil	.54	.54
PURE SOY	64 oz.	Co-op Soya Oil	1.55	.39 *
	32 oz.	Co-op Soya Oil	.85	.43
	16 oz.	Co-op Soya Oil	.47	.47
	16 oz	Hain Soy Oil	.55	.55
CORN	32 oz.	Co-op Corn Oil	.80	.40 *
	48 oz.	Mazola Corn Oil	1.18	.39 *
	32 oz.	Mazola Corn Oil	.83	.42
	16 oz.	Mazola Corn Oil	.50	.50
	29 oz.	† Ajinimoto Tempura Oil	1.29	.71
	16 oz.	Hain Corn Oil	.89	.89
SAFFLOWER	32 oz.	Co-op Safflower Oil	.69	.35 *
	16 oz.	Co-op Safflower Oil	.39	.39
	38 oz.	Saffola Safflower Oil	.88	.37
	24 oz.	Saffola Safflower Oil	.61	.41
	16 oz.	Hain Safflower Oil	.55	.55
PEANUT	24 oz.	Planter's Peanut Oil	.76	.51 *
	12 oz.	Planter's Peanut Oil	.49	.53
	12 oz.	Planter's Popcorn Oil (butter flavor)	.53	.71
OLIVE	32 oz.	Co-op Olive Oil	1.55	.78 *
	16 oz.	Co-op Olive Oil	.87	.87
	24 oz.	† Bertolli Oilive Oil	1.19	.79
	17 oz.	† Bertolli Olive Oil	.97	.91
	128 oz.	† Star Olive Oil	4.99	.62 *
	32 oz.	† Star Olive Oil	1.65	.83
	16 oz.	† Star Olive Oil	.94	.94
	8 oz.	† Star Olive Oil	.49	.98
	3 oz.	† Star Olive Oil	.29	1.55
SESAME	16 oz.	Hain Sesame Oil	1.35	1.35
	12 oz.	† Nishimoto Sesame Oil	.79	1.05 *

*Lowest price within group † *imported*

Consumers Cooperative of Berkeley, Inc., 4805 Central Ave., Richmond, California 94804

OPEU 29

Senator STEVENSON. Miss Haugen, would you like to present your statement, and then perhaps we could ask both of you questions?

Miss HAUGEN. Yes; I have a statement. It is brief, too. We felt, after 2 days, this being the 3d day of hearings, we would make our statements very brief.

Senator STEVENSON. Thank you.

STATEMENT OF MISS BORGHILD HAUGEN, EXECUTIVE DIRECTOR, CALIFORNIA FARMER-CONSUMER INFORMATION COMMITTEE, SANTA CLARA, CALIF.

Miss HAUGEN. Mr. Chairman, Senator Taft. You already know my name, so we will skip that part.

In your letter to me of November 30 you stated that:

> We would be particularly interested in learning about just how the consumer is affected by or benefits from the changing character of agriculture, including new developments, such as vertical integration, in that industry.

We regret to state that, in spite of new technical developments, the consumers' food bill continues to increase.

Vertical integration, the takeover by conglomerates and new technical developments, coupled with deceptive packaging and misleading advertising has confused the average consumer to the point where he is looking for action and reform.

We have a new breed of consumers, weaned and nurtured by TV violence and permissive lies in TV commercials on what to eat and why, who are questioning these so-called 20th century antics.

These young people, in the grade schools, high schools, and colleges, are really questioning our system which has for so long condoned and even encouraged these practices.

Young housewives, eager to feed their families cheaply and nutritiously are frustrated and alarmed over the increased use of preservatives, chemicals, antibiotics, pesticides, additives, and food supplements.

History has long extolled the American family farmer as the most efficient producer of food and fibre in the world. We spend millions of the taxpayers' dollars teaching farmers in foreign lands how to increase their yields so as to feed their hungry people. At the same time we are spending more millions of the taxpayers' dollars to literally drive the family-owned farms out of business, decimate the rural areas, and crowd our cities with unemployed, unwanted, and unskilled farmworkers who are forced to apply for help from the welfare departments.

All of these costs are passed on to the consumer in higher food prices, higher taxes, and smog-infested urban living.

What price technology? What price progress?

What matters if new machinery picks the tomato which no longer looks like a tomato or even tastes like a tomato. The consumer could not care less. But the consumer is concerned with higher food prices, higher taxes, and the decreasing quality of life.

When the rich get richer and the poor get poorer and malnutrition and pellagra are no longer the exclusive right of the underdeveloped countries of the world, but are on the increase right here in America, the richest and most powerful country in the world, it is time to plug those dehumanizing tax loopholes in our system which perpetuates many of these conditions.

There have been Government hearings concerning the plight of the farmer and the farmworkers going on for many, many years. But the condition only worsens.

I refer to the testimony presented before the National Commission on Food Marketing in 1965 and 1966, by farmer after farmer, many of whom are no longer in business.

Some talk about law and order in the streets, while many consumers talk about law and order in the marketplace and what really happened to our free competitive enterprise system.

When farmers are denied the right to bargain for a fair price for their produce and farmworkers are denied a fair and livable wage for their work, which is still vitally needed on the farms, and consumers are conditioned to buy what they don't really want or need, the future looks dim.

A decent life for all Americans is our heritage. We can no longer allow the erosion of the human spirit in our race for technological improvements.

Senator STEVENSON. Thank you, Miss Haugen. We will print your entire prepared statement at this point in the record.

(The prepared statement of Borghild Haugen follows:)

STATEMENT BEFORE THE SENATE SUBCOMMITTEE ON MIGRATORY LABOR

SENATOR ADLAI E. STEVENSON III, CHAIRMAN

January 13, 1972

Borghild Haugen
Executive Director
California Farmer-Consumer Information Committee
1346 B Franklin Street
Santa Clara, Calif. 95050

STATEMENT TO SUBCOMMITTEE ON MIGRATORY LABOR OF THE SENATE LABOR AND PUBLIC WELFARE COMMITTEE BY BORGHILD HAUGEN, EXECUTIVE DIRECTOR OF THE CALIFORNIA FARMER-CONSUMER INFORMATION COMMITTEE

JANUARY 13, 1972

Mr. Chairman, my name is Borghild Haugen, and I am the Executive Director of the California Farmer-Consumer Information Committee, a state-wide coalition of rural-urban consumers. Our Committee is made up of family-owned farm owners, farm and retail cooperatives, rural electric cooperatives, organized labor and individual consumers.

In your letter to me of November 30 you stated that "We would be particularly interested in hearing about just how the consumer is affected by or benefits from the changing character of agriculture, including new developments, such as vertical integration, in that industry."

We regret to state that in spite of new technical developments, the consumers' food bill continues to increase.

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A decent life for all Americans is our heritage. We can no longer allow the erosion of the human spirit in our race for technological improvements.

Senator STEVENSON. At this point in these hearings, I would like to agree with what you say, certainly with your statement about the death of free enterprise in American agriculture.

That old American dream of free men tilling and working the soil that they own is turning into a nightmare, from what I have seen of rural America. In spite of our devotion to the free enterprise system, it is beginning to appear that the most efficient unit of production, namely, the family farmer, is the one who is dying out to the benefit of the most inefficient unit of agricultural production, the large syndicate farmer, or the large corporate or conglomerate agribusiness enterprise in rural America. We are interested in getting at the reasons for this phenomenon in rural America, which as you also point out, leads not only to the dehumanization of life in rural America but also the dehumanization of life in urban America, as the migration continues from the countryside to the cities.

You mentioned the tax loopholes which offer agribusiness and syndicate farmers incentives to go into farming. We have heard a lot about the tax loopholes and we want to take a long, hard look at the tax benefits to the absentee landowners, and to the rich and to the powerful.

But what else is happening in rural America besides the tax preferences for the agribusinesses, the conglomerates, and the syndicate farmers? Are there other policies or activities of Government, that you know of, which seem to be responsible for this continuing trend in rural America?

Miss HAUGEN. You have the increasing taxes on property where farm property is based on the current retail value instead of on what he can get on his acreage, and so, naturally, he can't afford to continue in business. His interest rates on money, he can't afford to borrow the money, and, even if he did, he can't get a price, the farmer can't get a price, he can't get the price for the products that he is growing.

Senator STEVENSON. Are you suggesting he gets a lower price for his product than Tenneco gets, or the syndicate farmer gets, for the same product?

Miss HAUGEN. I don't know what Tenneco gets, but I have been to enough hearings of farmers where I know that they are not getting very much, they are not getting enough to cover their costs on what they are producing.

Senator STEVENSON. Speaking of marketing—and I hope, Mrs. Wood, you will feel free to answer, too—what has happened to the old farmers' market? It seems to me, even in my short lifetime, the housewife could go to the farmers' market, and she could buy a tomato that tasted like one. She could buy good quality vegetables at a low price. It seemed to me to be a pretty great institution for the housewife and for the farmer, too. He could bypass the middleman and sell directly to the consumer. What has happened to the farmers' market and how does the Berkeley Co-op buy fresh fruits and vegetables? Do you buy from big processors, marketing associations, or do you buy direct from farmers?

Mrs. WOOD. We buy in a lot of different ways. Much of our buying is still in the local produce markets, which is from fairly small to medium sized people as I understand it. In other words, our buyers still buy a lot of our fresh produce in Oakland and in San Francisco.

I am not an expert in this area, but I have heard how it is done. We have some contracts with growers and it actually does save us money if we can buy a carload of something at a time. In other words, it saves us money when we are buying enough to get potatoes or oranges in very large quantities. But we still deal with a lot of very small and medium size growers.

I would like to give an example. You asked what else is happening. I know a Mandarin orange grower who can't bring his Mandarin oranges into our warehouse because there are State regulations on the size of the boxes that are allowed to go into a warehouse.

Senator STEVENSON. What are the reasons for that particular regulation?

Mrs. WOOD. I don't know the reasons, and there may be people here—but there are often very restrictive State regulations on sizes of, let's say, the actual size of a Mandarin orange and the boxes that they are allowed to enter a warehouse in. He packs his oranges, his Mandarin oranges, for consumers in 8-pound bags, and it is not legal in California. I mean, it is a very strange situation. There are many little farmers here who could probably tell you about it.

Senator STEVENSON. It's been suggested before in these hearings that some regulations are concerned not with the nutritional value, or the safety of the foods, but with the appearance of the foods. I don't know whether that would be the reason in this case. Perhaps boxes are required, as opposed to bags, in order to preserve not the quality, but the appearance, of the orange. Do you encounter this kind of thing?

Mrs. WOOD. I would say, again, I don't know enough of the details of what inspectors look for, but I would say that there probably is a lot of very nutritious, good-tasting fruit, in particular, probably vegetables in California, that is not allowed to be marketed because they do not meet size specifications or a blemish specification, and there is a lot of stuff that is dumped.

I think that this may be, in the long run, helpful to farmers, or maybe to big farmers. I would like someone else to talk on that. But much good stuff is rejected because of superficial reasons and it is usually state regulations.

Senator STEVENSON. Do you have any observations to make about the farming practices, including the use of pesticides and chemicals, and their effects on the nutritional value and the safety of vegetables and fruits?

Mrs. WOOD. I would say I am very much in the middle. I wish that we could produce fruits and vegetables with no pesticides. I think that at this time this is probably not possible. I think, as Borghild said, that many consumers are very worried, and I get this kind of a worry several times a week. I think people are worried with reason, because I think the attitude, particularly of the big farmers, is to try to get the maximum production today and not worry about tomorrow. There are many, many cases I have heard of where you could use a pesticide, but use one-tenth as much as is used or in a very specific area, and I think some people are unduly worried about this. Many people are unduly worried. They will say, there are preservatives in canned peas, what am I going to do about those preservatives? There are preservatives in green beans, they will say, when there aren't. Consumers are often so concerned, and with reason, that they worry about many things that aren't a concern.

But I, as a citizen and as a nutritionist, am concerned about hormones in meat in the long run, and about pesticides in the long run, both in terms of our bodies and in terms of ecology.

Senator STEVENSON. Do you think it is fair to say that there is sufficient competition in the retail food business to have a healthy effect on prices?

Mrs. WOOD. Yes.

Senator STEVENSON. There is pretty clearly at this point a great deal of competition at the producing level and in the whole food chain. There is competition among farmers. But there is increasing evidence of unfair competition because of tax loss farming which makes it very difficult for many farmers who have to make a profit in order to stay in business and live.

One of the consequences, of course, is the continuing concentration of land ownership in the hands of fewer and fewer producers, such as the syndicate farmers, the corporations, and conglomerates. As purchasers of farm products are you concerned about the possibilities of monopolization of farming and the impact that the gradual monopolization of land ownership and fruit and vegetable farming might have on the prices that you, as a retailer, would have to pay for foods?

Mrs. WOOD. I can't say it is something we have worried about every day, but certainly, in the long run, we would worry about it.

Senator STEVENSON. It is not something you worry about today?

Mrs. WOOD. Any monopoly would probably have this effect of increased prices.

I might say that the policy of the Co-op is to buy from farm co-ops wherever possible. Not all of our things are from farm co-ops but where other things are equal the policy is to buy from farm co-ops, and most of these are cooperatives of small and medium growers.

Senator STEVENSON. What I am suggesting is that the small and medium growers may no longer be with us if something doesn't change. Then you will be forced to buy from fewer and fewer very large growers. There is that danger of growing concentration of land ownership and food production in the hands of a few, with all of the opportunities that they would then have to control prices.

Are you also concerned about the growing trend towards monopolization of food processing?

Mrs. WOOD. I can't say that I know enough about that. In the larger picture, I think that the small processors or the medium ones that we buy from are having more and more of a squeeze, that this difference in terms of the price that we get is narrowing some because of the costs to the small person. Or to put it the other way, these efficiencies that the large guys have are showing up more. This is a statement to me by people who are involed in buying.

I would like to say one more thing about the attitude of consumers for the plight of the farmers and the farm workers. I think many consumers, if they knew the situation, would be willing to pay more if the farm workers had decent wages. At our co-op, for instance, every co-op member did without grapes for, I think it was 3 years. We just did not have any grapes for that period, and most of them didn't buy any elsewhere. They were willing to do without something, and sometimes they are willing to pay more when there is a choice along this line.

Senator STEVENSON. Miss Haugen has made the suggestion that the consumer might be able to pay less for better quality foods if he had better access to the marketplace. This might be assured if the family farmer had a chance to continue farming. Our policies, at least from what we have heard so far, are determined to drive him out of agriculture. So I am just not sure at this point that it is necessary to suggest that the consumer even has to pay more. The consumer might be able to pay less if we had a free, fair system of enterprise at the producing level in agriculture.

Senator Taft, would you like to ask some questions?

Senator TAFT. Thank you, Mr. Chairman.

Mrs. Wood and Miss Haugen, first of all, let me commend you for undertaking the important job today of consumer education in these fields. I believe that many consumer problems can be assisted by informing the public.

At the same time, I think that problems are perhaps not as black and white as you point them out to be. We are particularly concerned with maintaining small farms and preventing a combination of production of agricultural produce by increasingly large corporations. First let us examine the question of nationally advertised brands, which Mrs. Wood said, I think, on the average were being sold at something like 15 percent or so over the special brands or the co-op brands of your organization.

Is there any indication as to whether or not this difference is related to the actual cost of production? In other words, are the prices being set necessarily with relation to the relative cost of production of the basic produce? Do you have any evidence of the actual production cost?

Mrs. WOOD. No, I don't have evidence about the cost of production of national brands versus private labels.

Senator TAFT. I am not talking about the final product. I am interested in what comes off the farm, what the farmer gets paid for, whether he be large or small or corporate or individual. I do not believe a 15 percent differential in cost necessarily is reflected or is reflecting the cost of production to the farmer of the particular item. Do you have any evidence that it is related?

Mrs. WOOD. No, I don't have evidence that it is related.

My point was, if there is any difference, the large company should be able to do it at a lower price.

Senator TAFT. Perhaps not. We have had evidence both ways on that subject.

Mrs. WOOD. The cost to our wholesale is related to this same cost.

Senator TAFT. I can understand that, but into that goes a lot of other costs, such as transportation and marketing. As a matter of fact, is it not true that the cost of the national brand or the price of the national brand may, indeed, be based not so much on what the actual cost of production of a particular item was but also on what the traffic will bear in view of the national advertising that has occurred?

Mrs. Wood. Exactly.

Senator Taft. That seems to me what you are saying. It is interesting and it is an important fact, and something I think we definitely should recognize. I believe this is important from the point of view of consumer education, but it does not necessarily go back to the basic question of production at the farm level of the particular items going into these products.

You talked now about national brands and deceptive advertising and the like. Is it not true that some national brands are produced by marketing organizations comprised of many small farmers? For instance, we had before us yesterday some very small farmers in the production of almonds who were very worried about the corporate farms going into this field. These farmers, however, were members of associations of small growers of almonds who are marketing together and presumably are marketing under a national brand name.

Is it not necessary for these type of arrangements to continue?

Miss Haugen. Do you mean the cooperatives, the almond growers who join the cooperative and sell their product?

Senator Taft. They may or may not become a nationally advertised brand. Some of the marketing cooperatives are nationally advertised brands, are they not?

Miss Haugen. Some of them. I don't think that when you buy almonds in the grocery store you know which brand it is.

Senator Taft. What about raisins?

Miss Haugen. Yes, you have, they are fairly reasonable.

Senator Taft. What about oranges?

Miss Haugen. They are fairly reasonable prices.

Senator Taft. These are nationally advertised brands that are in competition with your co-op.

Miss Haugen. This is fresh produce you are talking about and these are processed and manufactured products. I think there is a difference there.

Senator Taft. When you get to that level, yes. We are concerned primarily with the first level, the farm level.

Miss Haugen. The small farmers who belong to a cooperative are better off than those who don't, of course. Maybe that is the answer. They have a chance of bargaining and they are concerned over Tenneco when they already have a market and then Tenneco can come in and put in hundreds of thousands of acres of almonds and then they are going to lose this.

Senator Taft. This is the problem with which we are directly concerned, but it is not necessarily related to the ultimate price to the consumer or to the national brand or non-national brand characteristic of the foods involved. I am trying to sort out between apples and oranges, so to speak.

Miss Haugen. Why don't you say lemons, 2 for 23? You can go to almost any supermarket and store in the State—and we have a lot of lemons in California, both kinds, you know—but 2 for 23 cents, that is a hell of a price to pay for lemons in California.

Senator TAFT. And they are marketed, many of them, through cooperatives, aren't they?

Miss HAUGEN. Not all of them.

Senator TAFT. There are national brands selling lemons, are there not?

Miss HAUGEN. They are a little high. They are still 2 for 23 cents.

Senator TAFT. I want to take issue, while we are on this subject in this vein, Miss Haugen, with your testimony to the effect of: What matters if new machinery picks the tomato which no longer looks like a tomato or even tastes like a tomato. The consumer could not care less.

I, as one consumer, happen to like tomatoes. We grow a great many of them of rather high quality in Ohio.

Miss HAUGEN. I mean these funny shaped things that look like a pear.

Senator TAFT. I do care. You say the consumer doesn't care. I think the consumer does care.

Miss HAUGEN. I think the consumer does care.

Senator TAFT. The consumer cares very much whether the tomato is of a good quality.

Miss HAUGEN. Indeed, they care, but I mean they could not care about producing a new machine that is going to pick something.

Senator TAFT. I agree.

Miss HAUGEN. And it doesn't taste good.

Senator TAFT. I think this depends on how the job is done. Some are done by cooperative and some are done by other national concerns.

Miss HAUGEN. They need more research on the type of the seed or something.

Senator TAFT. Let me talk for a minute about your organization, Mrs. Wood. It is a consumer cooperative at Berkeley with 62,000 member families. You operate, I take it, a chain of grocery stores?

Mrs. WOOD. Yes.

Senator TAFT. How many employees do you have operating these stores? Do they also operate the processing companies that produce the material we have here in the exhibits?

Mrs. WOOD. No; they don't operate the processing company. Our own co-op has nine centers and nine stores. We are members and also owners of a wholesale, which is at the same address in Richmond. That wholesale services us and a Palo Alto co-op and a few other smaller co-ops in California. We are, in turn, members of the national wholesale that owns a lot of these labels, and probably co-ops in Ohio would have the same label on the peaches, or let's say the applesauce, as we do here, but the applesauce in our case would come from Sebastopol and in your case it might come from Michigan.

Senator TAFT. Store managers, presumably manage each of these stores?

Mrs. WOOD. Yes.

Senator TAFT. Who are paid on a salaried basis?

Mrs. Wood. Yes. We have about 500 employees, I think, in the Berkeley co-op. The wholesale is a separate but related organization. But we contract with suppliers who are sometimes co-ops. The milk, for instance, is Land o'Lakes.

Senator TAFT. As to these store managers and the executives, are they men of ability in this field?

Mrs. WOOD. Yes.

Senator TAFT. You have been in business for some time?

Mrs. WOOD. Yes, 35, 37 years, since the middle of the 1930's.

Senator TAFT. Do you have a president of your concern?

Mrs. WOOD. Yes.

Senator TAFT. How long has he been president of the concern?

Mrs. WOOD. He has been president, we have a board, he is elected to the board by the members. We have our annual meeting tomorrow night, by the way, and you would be welcome. But he is elected. I think he has been president just this past year, but he is on the board for 3 years.

Senator TAFT. He is paid a salary?

Mrs. WOOD. No; the board members are not paid. They hire the managers.

Senator TAFT. The store managers are paid themselves?

Mrs. WOOD. Yes.

Senator TAFT. And, presumably, comparably with other store managers or you wouldn't get first-quality people?

Mrs. WOOD. Yes.

Senator TAFT. Does the cooperative pay an income tax?

Mrs. WOOD. The cooperative pays an income tax on any undisbursed savings in any consumers' cooperative, the savings go back to the members in proportion to how much the members shop and how much was saved. It is a little bit like end of the year blue chip stamps in a way.

Senator TAFT. How much income tax did your cooperative pay last year?

Mrs. WOOD. I don't have the figures here. I could get them for you.

Senator TAFT. Do you think they did pay one?

Mrs. WOOD. They paid some income tax. They pay property tax the same as everyone else.

Senator TAFT. But the basic policy is distribution at the end of the year?

Mrs. WOOD. That's right, to members in proportion to how much they patronize the store.

Senator TAFT. And there is no corporation income tax paid on it?

Mrs. WOOD. No. As far as I understand it, any business can do this, any business can refund to patrons money of this sort.

Senator TAFT. A corporation, however, if it makes a profit before it makes any distribution by way of dividends has to pay a corporate income tax, does it not?

Mrs. WOOD. No; but I think several years ago when an automobile company was refunding $50 to everybody who bought a Nash or whatever it was, they didn't pay income tax on that $50.

Senator TAFT. How about a "mom-and-pop" store down the block which a family is attempting to operate and make a profit on. If they make a profit, they pay a personal income tax on it, do they not?

Mrs. Wood. Yes; but if they refunded some of that to the people who shopped, they wouldn't pay it on that part.

Senator Taft. It would be a gift tax then, if they went over the gift tax limit, but they would not get any income tax deduction, would they, for a gift to their customers once they collected the money?

Mrs. Wood. I think you could, let's go back to the blue chip stamps. I think that Safeway or anybody giving blue chip stamps does not——

Senator Taft. That is an expense of doing business, a promotion.

Mrs. Wood. But any business can refund. I go to a department store that gives some kind of a funny dividend thing and you collect it at the end of the year. They don't pay income tax on the dividend.

Senator Taft. That is a discount they are giving actually, is it not?

Mrs. Wood. Yes; it is. But in a certain sense the co-op is the same, but a co-op figures it out at the end of the year.

Senator Taft. The co-op members own it. It there is any profit in the operation, in effect it is distributed, and distributed without any prior tax to the co-op members. I don't see anything wrong with it.

I might say I have been in favor of cooperatives for many years. I am just trying to bring out that there are tax advantages which cooperatives have in comparison with the individual proprietorship that I think also are subject to review, and any time we set tax laws it should be understood that they are going to have some competitive effect between the various concerns that are involved. I am not saying what is right or wrong; I am just trying to point out that there are tax advantages to cooperatives, too.

Mrs. Wood. But I think, if you look at these tax laws, it is not something that is exclusive to cooperatives. The savings in the business at the end of the year——

Senator Taft. I don't agree with you on that. I have to say it is exclusive to cooperatives and I see nothing wrong with it being exclusive to cooperatives. It is a form or a method of doing business that has been developed in this country with which I happen to agree. It has done a tremendous job in many areas. But we have to recognize that any tax system we set up, there are going to be advantages that occur. What we have to decide is whether or not those advantages are equitable and desirable advantages. That is really what we are trying to assess now as to the entire agribusiness.

If losses are being used on a kind of loss-leader basis to promote unfairly an advantage for some producers over others, I am deeply concerned with it. But I don't think you can just talk in the abstract about tax advantages to one group or another, particularly from a cooperative point of view. That is all I have.

Senator Stevenson. You have both talked about vegetables, and most notably the tough-skinned tomato developed to be picked and packaged instead of to be eaten. In fact, the 1st day of hearings before you got here, Senator Taft, I mentioned that infamous tomato. It used to be that we could campaign with impunity. Somebody would throw a tomato at us and we didn't have to fear a serious wound.

Do you have any opinions about the activities of publicly supported colleges, namely, the Land Grant Colleges, which are helping to develop these weapons, tomatoes, and other vegetables? They are also, I gather, helping to develop machines which pick them. One witness before this subcommittee estimated that, of the agricultural services of the University of California, about 95 percent were invested in the development of new technology, maybe 2 percent, at most, to the social impact of technology on agriculture and rural America.

What is your opinion about such activities and such publicly supported colleges, and are there things that they should be doing to help with the development, not of leather-skinned tomatoes, but of edible and nutritious food products?

Miss **Haugen**. They are beginning to, they haven't in the past, but they are beginning to become quite aware. I think when the recent conference on food and nutrition, the first White House conference, I think, that President Nixon arranged, and we were invited to that, I think it was quite an eye-opener because the food industry was very much disturbed. They thought they had been doing a terrific job, and they were wondering why there were so many complaints, because there were complaints about advertising, complaints about lack of nutrition and all. Since then, there is quite a trend going back, the extension departments have nutritionists who are working with the poor and the people with low incomes. They have stepped up their program.

I think there is a trend throughout the country that we are just sort of reaching the full circle. Either we are going back to feudalism or we are going to really make the American dream work, because the gap has been getting wider and wider all the time between the "haves" and the "have-nots." Our technology is marvelous, we can walk on the moon, but we can't find jobs for people. We are eliminating jobs, and whose responsibility is this?

I think the gentleman from the Bank of America said we have two issues here. You have the economic issue and you have the human issue, and human values, and they are not related. We are going to have to relate them. I think this is a trend. We have talked about it in abstracts in the past, but we are beginning to face it. We have to do something.

Senator **Stevenson**. Do you have anything to add, Mrs. Wood, about the adequacy of the public services of our publicly supported colleges?

Mrs. **Wood**. I would like to second what Borghild says about the nutrition services, which I think aren't going far enough yet. I worked with the California Agricultural Extension Service in the nutrition education program, which is nutrition education with low-income people and I think this is a start, this is a nationwide program.

I would like to second, though, what Dr. Friedland said on Tuesday. I was very glad to hear him say it. I am an old Agie myself from Cornell, and I worked there, and I worked in agricultural extension and I worked in rural sociology and I have worked here and been in touch with the Agricultural Extension Service here, and I think that at least in these two States, and from what I have seen elsewhere, the Agricultural Extension Service is unduly conservative, unduly connected with the whole farm picture rather than the public at large.

Senator STEVENSON. Is it connected with the whole farm picture or part of the farm picture?

Mrs. WOOD. I don't know. I know what is happening in California on the nutrition side. I would say that when the University of California develops mechanical grape-pickers and mechanical tomato-pickers, without enough concern for the human values and the tomatoes, they are working for one side of the farm picture. I think that these agencies, along with the U.S. Department of Agriculture, have not always worked for the public as a whole.

Senator STEVENSON. Just shifting now to the national brand question. What is the price of oranges today in the Berkeley Co-op?

Mrs. WOOD. Nineteen cents a pound.

Senator STEVENSON. Nineteen cents a pound. That would be roughly how many oranges?

Mrs. WOOD. That is about three large ones.

Senator STEVENSON. 19 cents roughly for three oranges. Are those Sunkist oranges?

Mrs. WOOD. Sometimes they are; sometimes they are not.

Senator STEVENSON. How do you purchase your oranges?

Mrs. WOOD. I don't really know, I am sorry.

Senator STEVENSON. Is there a difference in the price between Sunkist and other oranges you sell?

Mrs. WOOD. We often have had two kinds of navel oranges on the stand at the same time, and when we do Sunkist is higher.

Senator STEVENSON. Sunkist oranges are all California oranges, is that right?

Mrs. WOOD. I think so.

Senator STEVENSON. Sunkist is the label of a marketing association, I believe, for California oranges? I don't know if all the citrus growers in California belong to that association. My impression is that they don't all belong to it. Does it include growers in other States? Have you ever purchased oranges from Texas?

MRS. WOOD. I don't remember that we have. We have purchased a lot of grapefruit from Texas, grapefruit from Florida.

Senator STEVENSON. The reason I asked is that I have been to Rio Grande Valley of Texas, and seen citrus rotting on the trees. I can't remember the price of oranges in Texas. My vague recollection is that you can buy a very large truck full of oranges for $8. I don't know how many oranges there are in a large truck, but I suspect that the difference between $8 for a truckload of oranges and 19 cents for three is significant.

Why, with all due respect to California oranges, which are famous, and consumed in my State of Illinois, isn't the Berkeley Co-op buying oranges at $8 a truckload, if my figures are correct?

Mrs. WOOD. I don't know.

Senator STEVENSON. The point I am trying to make is I think your point, that while national brands can be an effective way of helping farmers market their products, they can also be an effective way of excluding farmers from markets. In this case there are many farmers in Texas with good and tasty, nutritious oranges, but without a market.

Mrs. WOOD. In answer, why aren't we, they are probably not available to us in any practical way.

Senator STEVENSON. Do you have any further questions, Senator Taft?

Senator TAFT. I have none.

Senator STEVENSON. I want to thank both of you again very much for joining us this morning.

I am very pleased to welcome our next witness, Congressman Jerome Waldie, who represents his district with great distinction in the Congress.

We are glad to have you with us this morning, Congressman.

You have been interested in a great many public concerns, including the problem of water in California. We are grateful you could join us and I know what you have to say will be a great help to us.

STATEMENT OF HON. JEROME R. WALDIE, A REPRESENTATIVE IN CONGRESS FROM CONTRA COSTA COUNTY, CALIF.

Congressman WALDIE. Thank you, Mr. Chairman, and Senator Taft.

I have a statement, Mr. Chairman, which I will submit for the record. I will not read the statement, I will talk around it.

Senator STEVENSON. Without objection, your statement will be entered in the record at the end of your testimony.

Congressman WALDIE. Thank you. I would first like to bring to the attention of the committee an issue that I suspect has been covered in considerable detail. This is the national policy of landownership and distribution, a policy which has allegedly existed since early American history.

I think it was premised on the recognition that those landownership policies in portions of our country that have concentrated land in single ownership have been undesirable. The most outstanding examples of undesirable landownership policies are the plantation system in the southern part of the United States and another of more recent date, but continuing period of time, landownership policies in the West.

By historical accident the concentration of landownership in the plantation system in the South stems from the land grants given to those who colonized that portion of America. Land grants in the West stem from a policy of Mexican land grants, for the most part. In contrast are the more equitable and beneficial land distribution policies found in the Midwest, a direct result of the Homestead Act.

I think if we assume as an accurate statement that the historical evolution of landownership in the heartland of America was best for America, that small landownership and the resulting social benefits that ensue is the policy we should have encouraged as we distributed our public lands, then, I think, we know that we erred in the South when we did not redistribute the plantation system after the Civil War, and when we did not redistribute the western lands when they became incorporated as a part of the United States.

Having made that statement, and it is a statement which I deeply believe, I see the problem as how to correct the error, that when these lands came into the public domain they were not distributed properly.

We have determined, apparently, that we will not take the revolutionary advice that we have consistently given as part of our foreign policy, most notably in South and Central America and most recently in South Vietnam. We have insisted in our policies with those governments that stability of their societies would be largely dependent upon redistribution of the land ownership patterns from the concentrated pattern that exists in Central and South America and in South Vietnam, to a distribution of ownership among the people. This is a policy that we have consistently attempted to follow in our foreign affairs because we believe there is social value to it. But we have rejected it as a means of correcting historical error of land ownership in the South and the West. We have believed this policy to be too revolutionary for us to adopt, but we have insisted that those foreign nations with whom we deal adopt it in order to bring stability to their society.

What we ought to do is accomplish that redistribution of lands and the ownership patterns of lands, particularly in the West, by other policies, most notably by the proposed Land Reform Act, and the existing excess land laws that apply to water developed and delivered by the Bureau of Reclamation. This attempt at a national policy said, "We believe in America that a distribution of land as widely and thoroughly among the people as is possible is the most equitable means of attaining equity and stability in our society." We will encourage that distribution of land by a national policy that suggests that, if the landowner desires revenues from the general treasury of the United States in the form of subsidies, in this instance a water subsidy, he will comply with the national policy of redistributing his land by the acceptable means of selling all land in excess of the acreage limitation of 160 acres for one individual, 320 for multiples thereof, depending upon the family.

We have also determined as regards the excess landowner, that absentee ownership is a policy that lends itself to instability in society and that we would discourage absentee ownership in the West, a factor that had existed in the West along with concentrated land ownership since its early history. We would attempt to redistribute that land to eliminate the absentee ownership factors of the land by applying the national policy involved in the excess land law. That law has been on the books since 1902. I think there is no one who believes that law has been in any way successfully implemented.

There are few who really believe in the law. As nearly as I can ascertain, there are hardly any persons, other than Paul Taylor of the University of California and a group of people who believe in him—and I am one of those—who believe that the excess land law is desirable.

The political leadership of California has continually resisted the application of the excess land law and the redistribution of these huge thousand-acre tracts, multithousand acres that are in single and now in corporate ownership. The political leadership of this State has expressed its disapproval in that law in mass terms.

They have said, for example, that the 160-acre limitation, though it has some validity in terms of the concept of the small farmer, should be modified. Governor Reagan's task force during his administration has come up with a figure of 640 and the multiples thereof. The point is, though, not that there is a figure in excess of the 160-acre multiples available under the law that is desirable; the point is that nobody in political leadership in California who is able to effect reform in this particular area believes that reform is desirable. Or, if they believe it is desirable, they are not willing to call for that reform.

The national government, unhappily in my view, has aided and abetted the political leadership of California in their conservatism, in their outspoken and successful attempts to avoid the application of the excess land laws. They have done so in a variety of ways.

In the first instance, the placing of the administration of that law in the Bureau of Reclamation was an error of grievous proportions. It seems to me it was an error for these reasons: The Bureau of Reclamation, like any bureaucracy is desirous of maintaining its existence by engaging in as many projects as it can possibly include in the budget session of each year. The excess land law is a hindrance to developing water projects in the West because those who will benefit most by those water projects, the huge landowners of the West, are resistant to having their land ownership in any way denied to them or redistributed by the application of the excess land law.

In order to encourage the approval of projects throughout the West, the Bureau of Reclamation has been given the task of enforcing the excess land law and has been greatly remiss in the administration of that law. The law, simply stated, is that the lands in excess of 160 acres or the multiples thereof permitted under the law must be sold at a prewater price if you desire subsidized Federal water. Lands that are in excess of 160 acres or multiples thereof that utilize federally developed and delivered water must be occupied by the owner thereof. You cannot be an absentee owner, because the policy of absentee landownership and the policy of huge land ownership is contrary to national policy.

Despite the simplicity and the clarity of the statement of the law, if you were to examine the record of the implementation of the law by the Bureau of Reclamation, you would assume that it is either extremely complex or that it is, in fact, nonexistent. They are aided and abetted in their reluctance to enforce that law by the Congress and all administrations. There seems to have been disagreement with the principles of the law by every administration and every Congress that has been in existence. Since 1902 no one can convince me that were Congress and the administration desirous of implementing that national policy, that law would not have been implemented.

Beyond that, the law presumes that, if an individual owner who does not desire to break up his massive land holdings and is able to go it alone, he may do so. The law does not interfere with that opportunity or that individual decision. But that individual option was the precise reason for the development of the California Water Project, which enables avoidance of the application of the excess land law to the corporate landowners in the west side of the Central Valley. This powerful block of landowners was successful in persuading people in California to indebt themselves to huge sums to construct the water project and to huge sums that have accrued since that project has begun. The project was designed almost exclusively, politically, certainly exclusively to avoid the application of the excess land law.

That would be bad enough, but at that point, it would seem to me, the sins, to the extent they exist, are sins that reflect on the State government which designed the project and persuaded the people of California that it was in their best interest to enhance the value and to prevent the redistribution of these huge tracts of land in California.

Beyond that, however, the sin becomes expanded and the National Governemnt now has to assume a major share of that sin. The Bureau of Reclamation, the Department of Interior, and most administrations, both the present one and the previous ones, have looked sympathetically upon the application of the State of California and the California water project for Federal funds to assist in the completion and construction of integral parts of that project.

The first such breach involved the San Luis Dam, when the joint use of that facility was approved by the Congress. Though it was never clearly determined that the excess land laws did not apply since there was an investment of Federal funds in this State project, that has been the result of that action. Excess land laws do not apply at the present time to the delivery of any water developed or delivered through the State water project.

At the present time there is pending before the Congress a bill (H.R. 2314) authorized by Craig Hosmer, a Congressman from Long Beach, to construct a facility in my district, a fact which you might construe to be unusual. It is a major project known as the Peripheral Canal. Many years ago as the feasibility report states, it was determined it would cost about $208 million, but it quite clearly will be many millions more than that now.

Mr. Hosmer has introduced a bill sponsored by the Department of Interior and sponsored by the California State administration to have the Federal Treasury come up with half of the cost of the Peripheral Canal. The Peripheral Canal is the heart of the California water project because, without the Peripheral Canal, the quantities of water they proposed to deliver and contracted to deliver in the fifties cannot be delivered because salt would be pumped up out of the estuaries and out of the bay into which the draft of the pumps of the water project are now directed. The Peripheral Canal will place that draft 43 miles upstream in the Sacramento River and they will then not be troubled with such a deteriorated quality of water that they cannot deliver it and still be in compliance with the contracts for water delivery.

If the Federal Government agrees with the concept of the Peripheral Canal bill, we will, in fact, pick up half of the cost of the construction of that facility. What we, in fact, have said to the State government is that we approve of the State of California's decision to avoid the national policy of application of the excess land law, and we are using Federal funds to assist them in the implementation of that scheme to avoid a critical and essential national policy of land reform.

We assist in the development of the California water project, in contravention of this national policy of long standing, in area after area. We assist in tax policies that have application to issues of that nature. We assist through the Bureau of Reclamation in the planning of the project. We have attempted to coordinate the Federal projects in a manner that is most beneficial to the State water project in order to save the cost to the State of the State water project.

We have done everything we could, as a national government, to assist the State of California in acting contrary to a national policy of long standing and of tremendous beneficial impact on American society. It does seem to me that the Congress of the United States and the executive branch of the United States has to make up its mind, do we really believe in the small farmer in America, do we really believe that the development of landownership in the Midwest and in the heartlands of America was a proper development of landownership, or do we honestly believe that the plantation system in the South and the huge landownership system in the West are in the best interest of the people?

Clearly in California, what is in the best interest of the people was not given much consideration. The political influence of the people who own these massive tracts of land is enormous in California. That political influence has become greatly magnified as the ownership of those tracts of land moves into corporate ownership. The ability to prevent the continuation of a situation that, from its inception, was contrary to national policy is becoming remarkably diminished as we permit the developments of recent years to continue.

It seems to me, Mr. Chairman, and Senator Taft, that someone in the Congress must make a definitive statement that the excess land law and the policy of small ownership of agricultural lands in California and in the rest of the United States was a desirable policy when it was implemented, when it was executed, and when it was formulated, and is an even more desirable policy today. Whatever the reasons that existed historically for determination of the homestead method of landownership, those reasons are magnified in terms of the necessity of obtaining stability in American society today. All the desirability, the romance of owning land and farming on it that is the fabric of America, is now more dramatically necessary to our national well-being than ever before in our history.

I state, Mr. Chairman, that the contribution this committee has made, coming into California, a State that more than most has thumbed their nose at this policy is considerable. This State's political leadership from the beginning, at least, of my interest in and involvement in politics has repudiated that policy and has sought to prevent its application and has sought to prevent the consequences of that policy ever being implemented in California for Californians.

With that, Mr. Chairman, I will submit my statement and respond to questions that you might have.

(The prepared statement of Congressman Waldie follows:)

STATEMENT BY CONGRESSMAN JEROME R. WALDIE
BEFORE THE SUBCOMMITTEE ON MIGRATORY LABOR
OF THE SENATE LABOR AND PUBLIC WELFARE COMMITTEE
JANUARY 13, 1972 -- SAN FRANCISCO, CALIFORNIA

Mr. Chairman, members of the Subcommittee, in August of 1970 I wrote to the Secretary of the Department of Agriculture voicing my concern about the possible detrimental effect on crop prices by continued new development of acreage on the West side of the San Joaquin Valley.

My concern followed the release of a preliminary report prepared by Professors Dean and King at the University of California, Davis.

The Dean and King Study indicated that some 253,000 acres of new agricultural lands would be developed following the availability of new water from the State Water Project and the San Luis Unit of the Central Valley Project of the U.S. Bureau of Reclamation.

In my letter to then-Secretary Hardin, I questioned the wisdom of this development of new acreage which will grow crops already in surplus in California and already causing great hardships on small and medium sized growers.

In that letter I said, "It is my view that the United States Bureau of Reclamation is knowingly expanding acreage in an area where surpluses already exist and where the Federal Government is expending large amounts of public funds to protect farmer's prices. This seems to be an inexplicable and incongruous situation which is worthy of full investigation."

Mr. Chairman, I should have included the State of California when I challenged that policy of developing new acreage in an area already burdened by softening prices and crop surpluses.

Shortly after I sent my letter to the Secretary of Agriculture, I received a response from the Economic Research Service of the Department.

I would like to quote from a part of that letter,

> "The current irrigation development in the San Joaquin Valley referred to in your letter was planned in the early 1950's in accordance with guidelines in existance at that time. Currently, the Bureau of Reclamation's program, along with similar water and related land resource programs of other Federal agencies, are coordinated by the Water Resources Council which was established in 1965. Under the aegis of the Water Resources Council, all proposals for developing water and related land resources are evaluated in accordance with projected national requirements for agricultural products.
> IT IS INTENDED THAT NO WATER RESOURCE PROJECT BE CONSTRUCTED UNLESS ITS OUTPUT IS NECESSARY TO HELP PROVIDE THESE EXPECTED FUTURE REQUIREMENTS."

I call this to your attention, Mr. Chairman, because of its importance in light of a more recent letter from this same agency.

On December 28, 1971, Charles V. Moore, Agricultural Economist with the Department of Agriculture's Economic Research Service, sent me a copy of a report entitled, "Financial Analysis of Potential Agricultural Development on the San Joaquin Valley Westside."

The conclusions of this report, Mr. Chairman, match the conclusions of the earlier Dean and King Study -- that development of the Westside is going to result in a threat to the pricing structure of specialty crops.

Mr. Moore wrote me that the report points out some "potentially serious problems" for California farmers and he said that the report was considered by some to be "somewhat pessimistic."

Mr. Chairman, I consider the report to be terribly pessimistic for California farmers, and for California farm laborers, including migrant workers.

I think that this report serves to indicate that the policies of the State and Federal Governments in fostering this expansion of acreage is beyond change -- despite the obvious dangers it poses to the agricultural structure of the State and the Nation.

I quote from the new study:

> "...the unmistakable thrust of the results of this study is that the Westside development may bring on severe financial difficulties for some districts on the Westside, and that the spillover effects in terms of lower prices elsewhere in the State may create income problems in other areas producing specialty crops."

Mr. Chairman, the report suggests three possible solutions to the obvious problems raised by increased acreage. One, by controlling acreage and production of specialty crops through marketing orders or quotas. Two, by reducing water costs by having State and Federal Government subsidize the construction of distribution facilities and drainage systems. And, three, by relying on the growers and producers to limit acreage production sufficiently to protect prices.

I would like to make a brief comment on each of these alternatives before addressing myself to what I believe is the most important point to be made by the report.

Market orders and quotas will stop over-production only if they are extended to all specialty crops, those being cotton, citrus, nuts, orchard fruits, tomatoes, etc.

While quotas will protect the existing growers, they do act to create a monopolistic situation that can result in price and supply problems harmful to the consumers.

The second alternative, cutting water costs by further Government subsidy, is absolutely repugnant to the people of California who, unwittingly perhaps, approved the expenditure of some $3 billion for a State Water Project with the assurance that the users would pay for distribution and drainage facilities. We have seen already some indications that voters and users are reluctant to pick up the tab for constructing distribution facilities. Voters in the Santa Barbara area, for example, defeated three incumbent water district officials who advocated such facilities.

The possibility of growers governing their own production would be the best of the three proposals, but only if the decisions were in the hands of the farmers. As long as decisions regarding production and development of the Westside are to be made by the giant corporate farms, I have deep reservations about restrictions being adopted to protect the small and medium-sized growers. I fear that the very opposite will occur, that production of this new acreage by the corporate farms will be for the express purpose of creating a better market situati-n for the integrated farm product producer -- at the expense of the small farmer.

In short, the water policies of the State and the Federal Governments unless changed, will most likely result in the destruction of the small farmer and the continued prosperity of the corporate farm without any resultant benefits for the consumer.

If this were not bad enough, Mr. Chairman, both the Bureau of Reclamation and the State of California want to bring in still more water to the San Joaquin Valley by the impounding of wild rivers in the North Coast of the State.

I have long opposed such development on the grounds that these are the last remaining wild river systems in the State of California and have cultural, historic and natural benefits to the people of the Nation worthy of protection of these rivers.

I have, also, maintained that these rivers are not necessary for either agricultural, industrial or domestic use given the alternatives of desalinization, recycling and geo-thermal deposits.

Thus, Mr. Chairman, I was pleased to note the agreement of the authors of the analysis sent me by the Economic Research Service of the U.S. Department of Agriculture with my contention that the North Coast rivers are not needed by the State's agricultural industry and would, in fact, result in further pressures on the price structure of that industry.

I would like to quote from the report:

"Several very large-scale diversions of water have been suggested

> for California in the future. These include development of the North Coast water supplies, and in the longer run, water transfers from the Pacific Northwest and/or Canada and Alaska to the arid Southwest of the United States. These plans assume that irrigated agriculture will absorb a high percentage of this expensive water within a period of a decade or two. This report has attempted to demonstrate the economic difficulties which may be encountered when the rate of development of land is faster than the rate of build-up of market demand for high-value specialty crops. The magnitude of this problem is in direct relation to the scale of the anticipated inter-regional transfer (of water). That is, the possible price depressing effects of the rapid addition of large acreages of specialty crops may preclude the feasibility of these large-scale projects.
>
> "This suggests that methods and technologies of providing additional urban water supplies should be explored as alternatives to more large dams and aqueducts which, because of their large scale, have traditionally relied heavily on the agricultural component for economic and financial feasibility."

Mr. Chairman, I fully concur with that conclusion. I believe that we should go beyond the reconsideration of proposed projects and reconsider existing and already authorized projects in wake of the severe economic effects their use will surely bring to the California grower, farm worker and to the consumer.

Mr. Chairman, I suggest that the Water Resources Council has not been properly alert to the serious problems facing California agriculture. If it had been, I do not believe that there would even be serious consideration of further water importation projects for the purpose of opening up more irrigated lands in the Westside of the San Joaquin Valley.

Additionally, I believe that new and deeper consideration should be given to such water transfers as the Eastside Division of the Central Valley Project.

I share the concern of Norman B. Livermore, Secretary of the State Resources Agency, that development of the Eastside Division might well further contribute to the crops surplus and pricing crisis that already exists.

The solution to the farm problem, I believe, is to strengthen the small farmer to the extent where he can make a good living, pay just wages and produce to the best of his and his land's ability.

I agree with the head of the California Grange, Mr. Chester Dever, who recently said that farmers and workers must support each others efforts to survive the pressures of the corporate farms.

Mr. Dever said that California's small farmers must be prepared to support the unionization of farm labor because the farm labor unions support organized bargaining for farmers.

Mr. Chairman, I have joined with several Colleagues in the House of Representatives in introducing legislation which will put new strength in the hands of the small farmer by forcing excess land owners to sell that land to the Government for ultimate sale to other small farmers.

This legislation provides a market for existing excess lands; it would provide for sound land-use planning; it would provide, through revenues from the sale of the land, for a special education, conservation and economic opportunity fund; and would provide job opportunities and a chance to own their own land to thousands of farm workers and migrant laborers.

Mr. Chairman, the problems facing California's agriculture industry, its farmers and its farm workbrs, are grave but not insoluable.

Improved water resources management and planning, and caution in the development of new agricultural acreage are but two of the integral parts of the ultimate solution.

I believe that the fact that you have brought the Subcommittee to California to confront the problem may well serve to bring this solution closer to reality.

Senator **Stevenson**. Thank you, Congressman.

The concerns you have eloquently expressed about the ability of Americans to acquire their own farmland have been expressed before in our hearings and by people concerned about land ownership in other parts of the Nation where water isn't an issue. Before the need for national land reform is fully accepted and before such reforms are fashioned, shouldn't we know who owns the land? Shouldn't we know something about the distribution of land ownership in the country? And, if so, is there any agency of the Government, State or Federal government, which does inventory land ownership?

We have agencies in the Department of Commerce, the Department of Labor, Bureau of Labor Statistics, and many others who inventory various assets, and maintain all sorts of statistics on aspects of the economy. Do we, to the best of your knowledge, know who owns the land in America?

Congressman **Waldie**. I know of no agency that provides that service and I concur in the suggestion you made about the solution of the problem requiring the understanding of the extent of the problem, and perhaps even more importantly it requires an understanding on the part of the people not only as to the extent of the problem but how the problem has worked contrary to their best interests.

I find that few people in the West talk about the need for land redistribution, and when they do talk about the need for land distribution they are widely characterized as advocates of radicalism. Land distribution is characterized as a concept foreign to being a good American, and that is utter nonsense. It was the basis of our policy when we started developing this country in the distribution of public lands over which we had a policy, which was the heartland of America. It is the keystone to our foreign policy. I can imagine the hypocrisy of a State Department representative going to Central America or South America or going to South Vietnam and suggesting to the establishment of that political society that you must redistribute your land. That is the problem in your country. That is why you are confronted with revolutionary tendencies, because land ownership is so maldistributed. If I were a politician in Central America or South America who had no interest in the improvement of the lot of the people in my country and who was not interested in acquiring the stability that land distribution would bring about, I would respond: "That is an interesting concept for a representative of the American Government to propose. Will you tell me how you implement that concept in the southern part of the United States and in the western part of the United States? Will you tell me how you implemented it when you had the opportunity to do it, when those lands were in the public domain? If you tell me you failed to do it there by inadvertence and oversight, will you tell me what you are now doing to correct that inadvertence and oversight that is any way consistent with what you are advocating that I do to assist the people in the country in which I am living?"

I suspect it would be very difficult to answer that question.

Senator **Stevenson**. Is one of the reasons for the apparent maldistribution of land in the country the high price of land? Is it becoming priced beyond the reach of the little fellow?

Congressman WALDIE. I think it clearly is one of the reasons today. But that is not necessarily in any way prohibiting the Federal Government from implementing the policy of land distribution with the existing tools. They wouldn't have to enact any radical legislation to effect land distribution in a great part of the West. All they would have to do to effect it and implement it is to perform the responsibilities that the excess land law says they must perform, and have the Bureau of Reclamation administer that law in terms of the prewater prices at which that land will be sold and determine the most favorable time to place that land on the market. They should have that law administered and policy determinations made by someone whose self-interest is not as intimately involved as is the case of the Bureau of Reclamation.

Senator STEVENSON. Is the 160-acre limitation a realistic figure? It is 70 years old now. It has been suggested by the director of the California State Department of Agriculture, that it is no longer realistic. He suggested that a more realistic figure might be 640 acres because that was the average farm size in California.

Congressman WALDIE. My personal view, Mr. Chairman, is that everyone who opposes realistic land reform starts out saying the 160-acre limitation is unreasonable, given today's circumstances. What that man is really saying is he never really believed at all in the excess land law to begin with. He didn't believe in the policy of a small farm, and he is using the qualification that since it is an unrealistic figure now, we ought to expand it to overcome a policy that he never believed in to begin with.

I personally believe 160 acres and the multiples available to that are ample entities for the economic farmer. The argument that I am always confronted with is that the large landowner, the corporate landowner, particularly, is a far more efficient producer. If the small landowner had the subsidies given him that the large landowner does, he would be the more efficient producer. If he had the capital available to him to weather the declines that exist in the agricultural economy of the country, he would be a more efficient producer. If he were not a more efficient producer, though I believe he would be, but, if he were not, I would still support his being the primary component of production of agricultural products because of the social value of having small producers owning the land in America and having all the commensurate results of that policy that are good for America, the small villages, the small communities, the ability to have some say about how your life is run, the dispersal of our population from a concentrated metropolitan center back onto the land. That small producer, in my view, can be more efficient if you remove the competitive disadvantage that the large producer has because of the political impact he is able to apply on all the policies that subsidize his production. If you remove that and make him more competitive with the small producer, it might be the small producer will compete quite courageously and quite honestly with him. Even if he did not, I would subsidize the small producer to keep him on the land and I would penalize the excessively large corporate producer to get him off the land.

Senator STEVENSON. Would you enumerate for us some of the subsidies for the large producer in addition to the water subsidy?

Congressman **Waldie**. The water subsidy in the West is a paramount subsidy. The tax policy seems to me to be largely formulated to the advantage of the large producer rather than the small producer. The ability of the large producer to have little concern with the community in which he is conducting his productive operation is a factor of efficiency, illustrated by an incident that occurred in the Central Valley where a hospital district was sought to be created. The nearest hospital to that small community was 40 miles distant. They sought to form a hospital community district. The laws involved in the formation of these special districts gives the ownership of land a major voice to say whether the district shall be formed, because the land is the tax base of the district. The ownership in this district was almost exclusively absentee ownership. The hospital was denied because two landowners who owned most of the land in the district, two people, refused to permit construction of that hospital. They didn't live on the land. The benefits of that hospital would obviously not accrue to them. The cost of that hospital would have been a cost of production because it would have been a tax on their land. Their ability to forego community costs is a considerable competitive advantage on their part.

Senator **Stevenson**. Senator Taft.

Senator **Taft**. Thank you, Mr. Chairman.

Thank you, Congressman, for your very challenging statement. I have just a few questions that I would like to ask with regard to it. You state the Bureau of Reclamation is the wrong place to put the supervision of the excess land laws. Under whose jurisdiction would you put these laws? Would you advocate setting up a new control?

Congressman **Waldie**. Congressman Bob Kastenmeier, and myself and others, have introduced legislation that attempts to deal with that very problem. We set up, in effect, a separate and totally new and independent agency that has no function other than the administration of the excess land laws, the purchase, the acquisition of the lands that are being farmed in excess of 160 acres with subsidized Federal water and the disposition of those lands.

It just seems to me that it is asking more than we should ask of the Bureau of Reclamation, and I make no suggestion that these men are not doing a job as consistently and honestly as they can. But it seems to me, it is unrealistic to ask of a bureaucracy or of a Congress or of an individual that he act contrary to his best interest. The best interest of the Bureau of Reclamation is to encourage as many projects as they can get on the books. The application of the excess land laws discourages projects, as the decision of the State of California to go it on their own because of the application of the excess land law, I think, illustrates.

Senator **Taft**. You stated a number of times that you feel the State de facto policy is no longer consistent with the 1902 law. What do you advocate in regard to that? Do you advocate new legislation, a restatement of that principle? Do you feel that perhaps an attempt even to repeal the 1902 law might at least accelerate some approach to the problem?

Congressman **Waldie**. The precise position that I have advocated is encompassed, and I call your attention to and will submit as part of my statement H.R. 6900, which is a bill to provide for the creation of an authority to be known as the Reclamation Lands Authority to carry out the congressional intent respecting the excess land provisions of the Federal Reclamation Act of June 17, 1902. That is what I advocate, and the law is a fine law, and, were it able to have been enforced, it would have been a better law, but it is a fine law.

Senator Taft. The statements you have made with regard to land reform, which I think are impressive, are far broader in their application than merely reclaiming land.

Congressman Waldie. You bet they are. What I am really suggesting, Senator, is that we take the step that was designed in 1902, which we tell our friends in other countries to do, namely, engage in a massive redistribution of inequitable land patterns, ownerships. We are not going to do that because we have deemed that to be too provocative of our stable society. We at least ought to take this initial step and let's see what happens then.

Then I suggest we eliminate as many competitive advantages as we permit the large land holder to have and we enact no national policy, particularly, that encourages large land ownership in the agricultural field. All of our policies should discourage it.

Senator Taft. The reclamation area, for instance, with few exceptions, wouldn't apply to the problem in the South at all?

Congressman Waldie. It would not apply.

Senator Taft. It would not apply to ranching in Texas?

Congressman Waldie. No. In the South I would cut off the cotton subsidy, just as a start.

Senator Taft. I have given considerable thought to the cotton subsidy. You and I have sat on the floor of the House of Representatives many times and heard the argument that there must be a cotton subsidy in order to keep alive many small cotton producers. Then when you talk about a limitation——

Congressman Waldie. Except, Senator, I have never believed those arguments.

Senator Taft. I don't either, as a matter of fact.

Congressman Waldie. So we can discount them as tomfoolery.

Senator Taft. As you know, I proposed a $20,000 limitation, not the $55,000 that finally was passed.

Congressman Waldie. I do know that.

We didn't finally get it in, you are aware of that; we got the words "fifty-five thousand" in, but I looked at the subsidy payments paid this year and I found no one who received less than they got the year before we put the $55,000 in.

That is a fair example of our fantastic inability to do anything against these massively concentrated economic interests, and we tried, and I know how hard you tried when you were in the House of Representatives, but we didn't succeed. We were given a bone thrown to the public because the words "fifty-five thousand dollars" were put in there. There was no $55,000 limit on subsidies; the people in California who were receiving over a million dollars in subsidy received it this year with the $55,000 limitation. Senator Eastland, I am sure, received $150,000 or $250,000 for his cotton farm in Mississippi, as he received prior to the $55,000 limitation.

So I guess what I am really saying is that we do something in the Congress, because we don't have support in the administration, and I don't put it all on your guy. Our administration——

Senator **Taft**. I tried for many years under the prior administration.

Congressman **Waldie**. That is what I am suggesting to you, whether he be a Republican or a Democrat, he is unable to move in the interest of this issue. And I don't know the answer to this, except the people have to become aware that their representatives, whether they be in the executive department or the legislative branch, aren't responding to what is in their best interest. I am not implying that this administration in any way has been any more remiss than have preceding Democrat administrations.

Senator **Taft**. Would you just summarize for us the directions you think we might go in land reform over and beyond the question of claim land area? What particular steps do you advocate?

Congressman **Waldie**. Initially I would advocate the adoption of the bill that Congressman Kastenmeier and I have submitted, which seeks to put some meaning into the principles enunciated in the 1902 Reclamation Act, a small step given the national problem, but a huge step given the problem in California.

Second, I would not give one dime in Federal funds to assist any State in the West or elsewhere who seeks to avoid a national policy of land reform by going it alone. If they want to avoid it and want to go it alone, the law permits them to do so, but don't come to the national government to be assisted in their efforts to avoid national policy.

Neither would I permit the tremendous advantages that accrue through our tax policies to the large agricultural producer, not only the large agricultural producer but the large producer, period, in America.

Senator **Taft**. How would you advocate eliminating the so-called loopholes?

Congressman **Waldie**. I would start by eliminating the capital gains provision of the law. That would be an awfully good start to encourage land redistribution. I would simply eliminate capital gains, period, for everything, but particularly in land.

Senator **Taft**. Do you mean you would make it ordinary income? You don't mean you would eliminate it?

Congressman **Waldie**. No; I wouldn't eliminate paying on the gains, I would eliminate the capital gains rate.

Beyond that, I hesitate to go. I am not that familiar with the precise details of every one of our tax policies.

Senator **Taft**. Don't you think, that if you eliminate capital gains, you will make it more difficult for those who want to dispose of land to dispose of it?

Congressman **Waldie**. No. I think it is very difficult to hold land unless that land is productive and, if you applied the 160-acre limitation to much of the western land, that land would not be productive, it would have to be disposed of.

Senator **Taft**. There is a great deal of land with a tremendous amount of capital gain already on it. The elimination of the capital gains tax was tried in Canada for many years, and it promoted the transferability of property rather than freezing it into the current ownership.

Congressman Waldie. Perhaps that is not sophisticated enough or too sophisticated for me to understand, the tax policies. All I know, and all I believe, and perhaps it is a gut feeling rather than an intellectual feeling, is that the tax laws of the United States and of the States are designed essentially to protect the economic interests of the economically powerful because they have the greatest political input into the decisions made, I believe this to be so and it is an article of faith, I suppose, as well as intellect.

Senator Taft. I pointed out to one of my former colleagues yesterday that all tax bills start in the Ways and Means Committee of the House.

Congressman Waldie. They surely do.

Senator Taft. Senator Stevenson and I would be happy to see anything you send over to us.

Congressman Waldie. And, as you are aware, Senator, when we served in the House, the opportunity for any Congressman to participate in the tax decisions of the Nation is nil. When Wilbur Mills decides what they are going to be, the bill is presented to the House of Representatives and we vote a closed rule, I never do, but the majority does, so we don't get to even amend or suggest amendments to it. The input that I make and the national policies of taxation that you make in the House of Representatives has nothing to do with your ability, because there was no input. You have a much greater opportunity in the Senate, and I have been far more impressed with the abilities of Senators to have some input into most of the decisions of the country than those of a Congressman.

Senator Taft. I have not had an opportunity to act on tax matters in the Senate yet.

Thank you very much.

Senator Stevenson. Congressman, you and Senator Taft have mentioned the unfairness and deficiencies of the crop subsidy laws. Are you confident that those laws, as unfair as they are, are being administered fairly? Isn't it also a problem of unfair or partial administration of many laws?

More specifically, how do you feel about the administrative Commissioner of the Federal agricultural subsidy programs, Mr. Frick?

Congressman Waldie. I can't respond to that, Senator; I am not familiar with that issue. I have not believed that the problem of the subsidies has had much to do with the administration of the subsidy programs. I believe the picture, at least as I understand the administration subsidy program is nowhere near as indictable as the excess land law, where nothing has been done. I think the problems of the subsidies are not the administrators of that program, it is the Congress which has permitted that program to come into existence and it will not permit any retrenchment of that program.

Senator Stevenson. Thank you again, Congressman, for coming. You have presented in a most eloquent manner, a challenge to this subcommittee and all our colleagues in Congress and the public generally.

Congressman Waldie. May I just close with one final sentence which I hope you will be able to recall of my testimony, if you recall nothing else.

Do not assist the State of California in building the Peripheral Canal, and if I may, I will leave with that.

Senator STEVENSON. Your point is made.

Our next witnesses will be Mr. Ralph Brody, general manager, Westlands water district, Fresno; Mr. Porter A. Towner, chief counsel of the Department of Water Resources, San Francisco; and, Mr. Robert J. Pafford, Jr., Regional Director, Bureau of Reclamation, U.S. Department of the Interior, Sacramento.

Thank you gentlemen very much for joining us this morning.

I will say to you what I have said to other witnesses, if you have prepared statements we will be glad to hear them, or if you prefer to, we will enter them in the record, and you can summarize your statements as you wish.

Mr. BRODY. Speaking for myself, Mr. Chairman, my name is Ralph Brody. I wish to apologize to the committee for not having a prepared statement that I consider to be responsive to what the committee is seeking. That was a result of a misinterpretation of the letter of invitation for me to testify here. However, I am led to this conclusion also by some of the testimony that I have heard about on previous days of this meeting. I therefore would ask your permission to extemporize and to respond to some of the points that have been raised and to amplify on some.

Senator STEVENSON. By all means. However, if you do have a prepared statement, however unresponsive you may think it is, we would like to enter it in the record.

Mr. BRODY. Very well, I will turn it in. Perhaps you would wish to hear from the others before I proceed.

Senator STEVENSON. Why don't you proceed, Mr. Brody.

STATEMENT OF RALPH M. BRODY, GENERAL MANAGER, WESTLANDS WATER DISTRICT, FRESNO, CALIF.

Mr. BRODY. Mr. Chairman and Senator Taft.

As indicated, I am manager and chief counsel for Westlands water district, a district of some 600,000 acres of land on the west side of the San Joaquin Valley. I must confess, however, that I considered my invitation to appear here, due to the tone of the letter, more in a private capacity than that of manager chief counsel. But I have no objection to appearing in either capacity.

Senator STEVENSON. We are glad to have you in any capacity.

Mr. BRODY. I do not pretend to be an agronomist or farm economist; I am an administrator, I am an attorney.

Our district lies in the west side of the San Joaquin Valley and is the largest, will be the largest user of water from the Federal portion in the Central Valley project. As I indicated, it covers an area of 600,000 acres, 97 percent of which is developed land. This is not a project to bring new land into production but rather to sustain an existing agriculture economy.

Points that have been raised in the course of this proceeding concerning acreage limitation provisions of Federal reclamation law are not new ones and they are no more accurate now than they were when they were raised almost 10 years ago.

I further qualify myself by stating the early years of my professional life were spent in the Department of Agriculture and the Farm Security Administration where I was active in the farm tenancy program which was a program designed to convert farm tenants to farm owners which died almost aborning for the lack of adequate funding rather than from any lack of merit of the program itself.

I later was with the Department of the Interior, where, together with other work, I spent a good deal of time in the administration of the excess land provision of the reclamation law.

I spent some time with the State of California in the capacity special Counsel of water matters to Governor Edmund G. Brown in the development of the State water program.

I was in private law practice for a number of years, but since leaving the State administration I have been serving in my present position, where among other things, I have been administering the excess land provisions at the ground level in the district I represent.

So much inaccurate information has been given to you concerning acreage limitation that I would not, in the brief time available, be able to respond completely or set the record straight on all points. However, with your permission, I will comment on some of it.

I want to point out in partial response to Congressman Waldie's statement that, first of all, the excess land provisicns of the reclamation law are not solely embodied in the 1902 Act. I would point out at least up till 1926, later than 1926, to the 1940s and 1950' and 1960s, that there has been constant review of the policy of acreage limitation by re-enactment and numerous changes have been made in the law, so that reliance cannot be made upon the 1902 Act alone as Mr. Waldie has done. Existing law land Policy are fully complied with.

I would also disagree with Congressman Waldie as to the extent or enforcement of acreage limitation. For a number of years there was a laxity in the enforcement, but in the 1940s the Bureau of Reclamation began an active and agressive program of administering and enforcing acreage limitation.

The most recent comprehensive reenactment of acreage limitation was in 1926, in the Omnibus Adjustment Act by the Federal Congress, and I must disagree with the Congressman on his interpretation of the wording of that act. The provisions of the act essentially say this: A district that is contracting with the United States for benefits from a project must agree in its contract with the United States that it will not supply water to any owner of land for his land in excess of 160 acres unless the owner agrees to dispose of the excess over 160 acres. He must sign a contract, under the terms of which he agrees to dispose of the excess within a specified period of time, and providing further that if he does not dispose of it within the period prescribed, which in most instances is 10 years. The contract also states that if he does not dispose of the excess within that period of time the Secretary of the Interior then has the power of attroney to dispose of it for him.

Since the mid-1940's the Bureau of Reclamation has been very diligent in seeking and obtaining those contracts for disposition. Some of the land has already been disposed of under the terms of the contract, the 10-year period having expired.

I might add that the land must be sold at a price which does not exceed its actual bona fide value without reference to the availability of project water. So there is a limitation on the price for which the land may be sold.

I would point out that, in my own district, with the facilities necessary to deliver water to the 600,000 acres of land within the district less than one-third complete, and where they can get water, we have had a conversion from a 24 percent ineligibility under the law to receive water to an eligibility of some 83.2 percent. In other words that they have signed the necessary contracts. When the water became available they signed the necessary contracts and the acreage limitation is being enforced against them. Contrary to what you have been told, the law has been and is being complied with.

Westland's water district now has 200,000 acres of land under the required contracts, the contracts to which I have alluded..

Criticism has been leveled here as to the price for which the land is being sold. Examination of the record will reveal that since 1965 when water first became available within our district there have been approximately 15 sales of excess land. These sales have involved developed land, good land, class 1, 2 and 3 which has been leveled in many instances, and other wise improved, was sold, with Bureau of Reclamation approval, at the following prices: One parcel was sold for $600 an acre, that was the highest. In one instance it was $575 an acre. One at $541 an acre; two at $475 an acre; one at $435 an acre; one at $425 an acre; one at $400 an acre, one at $375 an acre, one at $350 an acre, one at $325 an acre, five at $300 an acre, one at $250 an acre, one at $225 an acre and two at $100 an acre. Even without seeing this land of superior quality, none could legitimately criticize the selling prices as being contrary to the policy of Reclamation law.

The impression that is gained from hearing the testimony heretofore presented that I gathered as time to you and as presented elsewhere over the years forces one to the conclusion that the witnesses are more interested in punishing the big man than they are in aiding the small one. If, for example, the witnesses appearing before who speak of acreage limitation are truly interested in getting the small man on a farm, why are they not suggesting programs whereby farmworkers and others who wish to settle on-a-farm can be enabled to obtain these lands which become available under Reclamation law. Why are they not suggesting programs whereby the small man can finance the acquisition under a reasonable interest charge? Why do they suggest programs which will aid the farm laborer who becomes a farm owner provide the money for him to finance his initial operations, and above all, why do they not suggest programs which will permit him or provide the opportunity for him to compete in the marketplace and to get a price for his product that is somewhere near what he has to pay for those articles which he has to buy?

I am no economist, but I can see what has happened to the farmer, large and small, is the fact that the price which he receives for his product has remained fairly constant over the last twenty or thirty years and the price that he has to pay for what he has to buy is much greater. Consequently there has been an increasing necessity for him to own more acres in order to provide the same income he had been receiving. There is great doubt as to whether 160 acres will sustain a farm family. It may be unfair to locate a small farmer on 160 acres on which he can't succeed. It would seem, therefore, that since increase in the limitation would be merited.

The last re-enactment of the 160-acre limitation, which dealt with the 160-acre figure was 1926, almost forty years ago. If at that time 160 acres was considered to be the amount which was necessary to support a farm family, the cost-price squeeze being experienced it would indicate that considerably more acres are required today than it did at that time, if the small farmer is to be enabled to support his family in today's economy. I submit that perhaps an objective study should be undertaken to determine what the legitimate acreage figure is that is necessary to support a farm family. Such a study should take into account type of soil, elevation, types of crops to be grown, growing season and other varients.

I do not believe that the Bureau of Reclamation needs to be embarrassed at the record it has had in terms of the enforcement of the acreage limitation and I am certainly proud of the record that has been found in my own district in this regard. Any objective person who knows his facts would concede that the enforcement results are exceedingly good. Every prediction that has been made about this project by the people who appeared before you on previous days in this proceeding, every prediction over the years that they made about this project has failed to come true, and what is more, what they have stated as fact has been fiction.

Senator **Stevenson**. In your district, are you making that as a general statement?

Mr. **Brody**. A general statement as to my district, I am referring to that specifically at this point, although I believe the same is true universally. I can only speak with knowledge as to my own district, I know generally what is going on in other areas and I know they are enforcing it there.

For example, a year or so ago, the Secretary of the Interior did dispose of holdings of the Di Giorgio Fruit Corp.; others have done it on their own thus eliminating the necessity for the Secretary of the Interior to do so. I am saying it has happened elsewhere, and I am convinced that it is being enforced elsewhere. I believe also that these holdings have not developed overnight and they are not going to be broken up overnight.

Senator **Stevenson**. You are saying that the 160-acre limitation is unrealistic——

Mr. **Brody**. If I may interrupt, I am saying that I do not know but I don't believe that anybody else who has thus far testified knows either, as to whether the 160-acre figure is appropriate in terms of general application. I am saying that I believe an objective study would reveal a study be conducted to determine that in most instances a unit of substantially more than 160 acres is required to support a family and that I recommend such a study.

Senator **Stevenson**. Quite clearly the size of the economically self-sufficient farm does depend a lot on the nature of the crop, and we have an arbitrary 160-acre limitation regardless of the nature of the crop. Do you have at this point any tentative views as to how you might formulate a more realistic acreage limitation which did take into account such factors as the kind of crop?

Mrs. **Brody**. A few years ago the Bureau of Reclamation suggested to the Interior Committee of the Congress what was called a class 1 equivalent formula which attempted to take the factors I have mentioned into account. It is one way of doing it. There are a number of ways it could be accomplished. For example you could have someone or a group, as new projects are developed, determine the acreage for that particular project and for that particular area. I also think that the determination should be subject to review from time to time. I can only repeat what I know and what I have been told by people in whom I have confidence, that in my own area, for example, 160 acres will not support a farm family on the basis of the kind of cropping that has to be done, the kind of equipment that has to be operated and the other hazards of this particular matter.

I have known Mr. Henning of the AFL-CIO for a number of years, I consider him to be a personal friend, but I think he has been misled by his subordinates just as this committee has been misled and I think others have been misled and I think Congressman Waldie has been misled by the inaccurate information given to him. For example, Mr. Henning testified the other day to the effect that there were 900,000 acres on the west side of the San Joaquin Valley which were in violation of the acreage limitation law, of the reclamation law, Federal law. Well, my own area is the largest entity within the Federal service area, on some 600,000 acres which are subject to the excess land provision of the Federal law, and it is complying with the excess land provisions. I know of no other land on either the west side or the east side of the San Joaquin Valley that is violating the acreage limitation provision of the Federal law. Mr. Bulbulian testified the other day as to the fact that the Bureau is favoring the large landowners by the prices which were being approved for sale. As usual, Mr. Bulbulian knows not whereof he speaks. I have read to you the prices which have been approved and supplied that to you and no one can contend that these are favorable to the seller in the sense Mr. Bulbulian has indicated.

Mr. Taylor testified that on the west side of the San Joaquin Valley Federal construction proceeds, an obvious allusion to our own project, to deliver, to serve water to 400,000 acres with two-thirds of the land ineligible. When we first started serving water the total district had 76 percent ineligibility. As Mr. Taylor well knows, there is no necessity for these people and no incentive for these people to sign these contracts until water was actually available. I have already demonstrated to you the figures of 83 percent eligibility where the water is available, so the people are signing these contracts, and I suspect this actually is to Mr. Taylor's disappointment.

Some years ago Mr. Taylor made the prediction and insisted upon the fact that the Southern Pacific Railroad Co. would evade the law and that it would not sign the necessary contracts. The Southern

Pacific Railroad Co. is signing the contracts as the water becomes available to its land. I sincerely believe that Mr. Taylor is disappointed in the fact that the compliance record has been so outstandingly good. I am convinced, and I believe the facts speak for themselves on the matter, that Mr. Taylor and others who have tritely tried to make these same points over the years are making a dupe of the farm laborer and the small farmer.

Senator STEVENSON. Eligibility depends on the contract, but the enforcement of the contracts is quite another question.

Mr. BRODY. I would submit to you that the contracts are being enforced, that they are signing them. The time for disposition, the project is just starting, it is a new project, it is not completed yet, but where they have signed these contracts they have agreed to dispose of their holdings, some starting in 1965, and progressively as water became available more were signed. Now within 10 years they must dispose of that land. If they don't, the Secretary of the Interior has the power of attorney to dispose of it for them.

Senator STEVENSON. Are you saying that upon the expiration of these 10-year periods, the Department of the Interior has been diligent in requiring the disposition of the excess lands?

Mr. BRODY. I am saying in our own district that term has not yet expired and that the right of the Department to sell the land has not become effective. I am saying in other areas it has been doing it but not too successfully, through no fault of its own or of the owners. I might suggest, sir, that the appropriate program for us to be thinking about, and so far have not heard of Mr. Taylor or Mr. Bulbulian or anyone else making this suggestion, as I have done to the Department of the Interior, that when the 10 years expire and there will be a large amount of land available for disposition at that point, that perhaps now is the time we ought to be thinking as to how we are going to make an orderly disposition of it, how we will make it possible for the small tenant or the small farmer to obtain this land. This is the kind of program that is needed but to suggest that the program is not being enforced at this particular time is perfectly ridiculous.

I believe that I will not impose further upon your time. I will be happy to answer questions and perhaps as time goes on here I have contributed something.

Senator STEVENSON. Thank you, Mr. Brody. I think before we come back to questions of you we might now proceed with Mr. Towner and Mr. Pafford.

Mr. BRODY. May I interrupt?

Senator STEVENSON. By all means.

Mr. BRODY. There are two additional points I would like to make. One is that if large land holdings are evil, then they are not evil because you put water on that land. The suggestion has been made that they are evil because they have the opportunity to control the Government. If this is truly the case, which I doubt, the problem should not be attacked merely upon the basis of irrigated land. I submit I have heard no comment about the fact that concentrated land holdings in the urban communities which control the ghettos, which create the ghettos, I have heard no comment about the fact that water is supplied to projects for urban uses.

Senator Stevenson. We are primarily now concerned about the plight of rural Americans, this subcommittee's jurisdiction doesn't really extend to water use in urban areas, although there is, of course, an interrelationship.

Mr. Brody. I am saying there have been statements made here before this committee to the effect of the evil of large holdings. I am saying it is not necessarily solely an evil farming matter, if it is an evil at all——

Senator Stevenson. I am afraid it is sewing an evil everywhere, the cities too.

Mr. Brody. But the other point I really intended to make was on the residency requirements referred to by Congressman Waldie. As I indicated before, there have been a series of enactments over the past 60 years with respect to the acreage limitation, and it was not until a week or so ago when a Federal court as part of an interlocutory judgment stated that the residency requirement was applicable. What will come out of that on appeal I don't know. But for the last 60 years the law has not been construed as the court or Mr. Waldie have construed it.

Senator Stevenson. Was it applied to disqualify corporations from ownership of irrigated land?

Mr. Brody. I don't know, sir, I have not gone into that question, it conceivably could. But it would also preclude a lot of the small owners from owning land also, that applies not only to the excess lands but to nonexcess lands, and a lot of the small owners who depend upon this income, rental income from these lands would be disrupted in this picture also, which would be a very, very serious problem. For example, in our own district there are 2,300 owners of parcels less than 640 acres in size who could be affected by this very, very adversely, and Congress should review that particular aspect of the limitation as to whether it is practicable and desirable.

Senator Stevenson. They would be affected because they are absentee owners?

Mr. Brody. Yes, sir, most of these. I am not saying all 2,300 would. I am saying there are 2,300 small owners. Certainly most, if not all of them are nonresident owners.

I am sorry for the interruption.

Senator Stevenson. Thank you.

(The prepared statement of Ralph M. Brody follows:)

PREPARED STATEMENT OF RALPH M. BRODY, GENERAL MANAGER, WESTERLANDS WATER DISTRICT, FRESNO, CALIF.

I wish to thank the Subcommittee for inviting me to testify here today on the subject of water development and the migrant labor problem. I am pleased to express my personal views on this subject. However, I must accept the invitation with the caveat that I do not pretend to be either an expert on migratory labor or an agronomist and I doubt that I can contribute much that will aid you substantially in your deliberations. However, there are one or two points I would like to discuss. These points are neither profound nor require great expertise and are, or should be, apparent to the ordinary layman who thinks about the situation of the migratory laborer.

Water resource development provides more job opportunities for the farmworker. In addition, by providing new and stabilized cropping patters, it can remove the worker from the status of migrant to a resident laborer. This, in turn, generates the opportunity for him and his family to avail themselves of the educational, health and other facilities of the community of which he can become a part.

I agree with the suggestion that has been made that the migrant laborer should also be given the chance to elevate his status above that of a farm worker and that a complete solution to the problem lies in the direction of providing an opportunity and procedure for the farm laborer to become a farm owner and operator. Most of the discussion in the past has been based upon the assumption that the farm laborer is to remain in that same category. It has been stated, with merit, that if we wish to really benefit the migrant worker, we must not only improve the conditions under which he works for others, but also give him the chance to become his own employer to the extent that he wishes to do so.

Aside from the obvious fact that improved agriucltural conditions brought about by water resource development can provide more jobs, and to some extent a greater number of year-round job opportunities, it would seem that federal water development projects afford opportunity to initiate a program whereby the migrant worker who becomes qualified through education and training to operate, and wishes to do so, to own his own farmstead.

For example, as has been pointed out by others, there is existing legislation in the field of federal water development which, if implemented and up-dated, could aid in achieving this end. I refer to the so-called excess land provisions in the federal reclamation laws.

These provisions require every landowner who desires water from a federal irrigation project to agree to dispose of his land in excess of 160 acres within a specified period of time. In the case of the Central Valley Project in California, and many projects outside of California, the period of disposition by the landowner is ten years. The agreement, which entitles the owner of the land to water pending disposition, also provides that should the owner fail to so dispose of his excess land within the ten-year period, the Secretary of the Interior has the power to dispose of it for him. Thus, under the existing program, land could be available for the people who are now engaged in working on the land. For example, in Westlands Water District alone, there are, at present, 200,000 acres of land which are already subject to dispository contracts. This is the contractual picture with the necessary water distribution works only about one-third complete. With the completed distribution facilities, we estimate that more than twice that acreage will be under that type of contract. Such land is, and will be, available elsewhere in California and throughout the western Reclamation states.

However, merely to make the land available for acquisition without the financial ability upon the part of the farm worker to acquire and operate the land means little. In order to meet this problem, it would seem that a program, akin to that of the Small Business Administration, would be disirable for adoption and funding so as to provide training and long-term federal loans at low interest rates, or without interest, to the eligible laborers and others, with the funds necessary to purchase and equip the farm and start operations. In the alternative, loans could be made available from private sources but guaranteed by the federal government with the federal government paying a portion of the interest cost.

I recall that during the 1930s and '40s the government had instituted a program for a conversion of farm tenants to farm owners. That program failed to achieve any substantial results because of the lack of adequate funding and because the amount loaned was not enough to permit acquisition of a unit sufficiently large to support a family, but the program and the principle were sound.

It appears then, that in addition to making the land available for acquisition and creating the financial ability to acquire farm ownership, there also must be an assurance that the size of farm or amount of land is adequate to support the owner and his family. Considerable doubt has been expressed as to whether, in most areas and with respect to many crops that might be produced, a farm of 160 or 320 acres, as provided under existing law, would be adequate. I believe that the consensus of those who are informed on the subject would indicate that this size farm would not be adequate.

There is one fact which, among others, stands out in my mind which would seem to indicate that this is a legitimate conclusion. The last time that the Congress designated 160 or 320 acres as the amount of land which presumably might support a family was 1926. Since that time, we all know the price which the farmer has had to pay for the articles he needs has steadily increased, while the price which he has received for his product and results of his labor has remained fairly constant.

For example, according to Department of Agriculture statistics, in 1949 the average price of a one-pound loaf of white bread was 13.5 cents. Today it is 22.9 cents. In 1949 the retailer's share of that bread price was 2.2 cents and today it is 5 cents. In 1949 the baker and the wholesaler got 6.3 cents and today they get 12.2 cents. In 1949, 1.7 cents went to milling, grain handling and transportation. Today it is 2.4 cents. In 1949 the farmer received 3.3 cents for his wheat and other contributions to the product and this figure has remained unchanged. This is fairly typical as to what has happened to the farmer's income.

I do not need to point out to this Subcommittee what has happened to the price that has to be paid by the farmer in the marketplace for the things he must buy. Thus, it would seem to me that if 160 or 320 acres was considered in 1926 as being the amount of land required to support a farm family, a much larger amount of land would be required today in order to meet the needs of a family.

Much has been said concerning the corporate farm as freezing out the small farmer. In my judgment, this is not the case. Without attempting either to justify or to criticize the existence of the diversified corporate farm, I would only state that it seems to me that it has been the economic circumstance of the cost-price squeeze that has forced the small farmer off the land, making the land available for acquisition by others, including the corporate farm. But that economic circumstance was not developed as the result of any corporate farm competition with the small farmer. Each receive essentailly the same price for his product in the marketplace. It is not a matter of underselling the small farmer, but rather that of being able to gain the profit from a greater number of acres and from the total handling of the production process that the small farmer was not able to obtain from his small unit.

In other words, I believe that the cause of the reduction in the number of family farms has been, and is, that the farmer today needs more acres to yield to him the same net return that he was able to receive from a smaller acreage three or four decades ago. The small farmer is then forced to himself become the operator of a larger unit or to sell his land to another to be farmed with increased acreage. The failure to obtain adequate income from the smaller unit did not result from the competition of the larger one.

The smaller farmer can survive and propser and he will be able to stay on the land when he can operate enough land to make this total operation profitable. The large operator survives, in major part, because his large number of acres makes it possible to withstand the lower profit per acre. I submit that even if the diversified corporate farm did not exist today, the small farmer could not survive unless he was able to farm more acres and obtain a reasonable return on the investment it requires.

I therefore suggest that the figure provided for in the Reclamation Law in terms of what is necessary to support the farm family should be enlarged to that which takes into account the cost-price factor and provide an amount of land under the Reclamation law which, indeed, will provide a suitable return and support a farm family.

In any event, it would appear to be desirable, in order to aid in assuring that the laborer can actually support his family, and not fail in the enterprise, once he gets on the land, that an objective and informed study be conducted to ascertain what size farm unit is and will be required to support that family and to permit the farm laborer to make a success of the enterprise.

When that has been done, the excess land program can be operated to the benefit of the farm laborer and others.

I would be happy to attempt to answer your questions.

Senator STEVENSON. Mr. Towner, will you please proceed?

STATEMENT OF PORTER A. TOWNER, CHIEF COUNSEL OF THE DEPARTMENT OF WATER RESOURCES, SAN FRANCISCO, CALIF.

Mr. TOWNER. My name is Porter Towner and I am chief counsellor of the State of California Department of Water Resources.

I have a prepared statement which has been made available to the subcommittee. We want to thank you, Senator Stevenson, and you, Senator Taft, for coming to *California and holding* these hearings.

The points I am going to make aren't as much federally oriented as they are State or State's rights oriented and I am not going to read the whole statement for that reason, I think you may be more interested in Federal projects and the application of the Federal law.

Senator STEVENSON. Without objection we will enter your full statement in the record.

Mr. TOWNER. Thank you, sir.

For your benefit I would like to briefly tell you what the State water project is. Its initial features will cost about $2.8 billion. It is a Statewide project and the largest single water development in the world to be financed at one time. To the present time, about $2 billion has been expended on the project and I would like to emphasize that these are State funds made available by the sale of bonds and by the use of State revenues from tideland oil and other sources. They are not Federal funds at all.

The reason for the project is essentially the same reason as for the Federal Central Valley project that is involved in the Federal law and Federal acreage limitation, that is, most of our water naturally occurs in northern California, north of San Francisco, and most of the water demands are south of that point. So it is a question of storing the water and eventually delivering it where the needs are.

Under the State project about 90 percent of the cost of the project is reimbursable and will be paid in full at the going rate of interest, that is, the rate of interest which it costs the State to issue its bonds. This repayment policy of full reimbursement is different from the Federal policy under reclamation projects, for example, and was not arrived at easily or without careful consideration. Several State administrations, Democratic and Republican, devoted a great deal of effort and time-consuming studies that evaluated the various options the State might employ if it got into the water business. Both houses of legislature carefully considered this matter, and in our statement we have references to the studies that were made and the reports which were pertinent.

The basic Burns-Porter Act itself which prodivded $1.75 billion worth of bond authorization was passed by the legislature and over and above the usual requirement for a Federal project, for example, was submitted to a vote of the people, since a debt was to be incurred. The referendum was approved by the people and all this occurred before we entered into the project. Then before we entered into the project we required that 75 percent of the costs be guaranteed, reimbursable by contracts with water users, power-using agencies throughout the State.

After these safeguards were made, we went to the Supreme Court of California with our first water supply contract which was with the Metropolitan Water District of Southern California. The court judicially determined that this contract and the law upon which it was based, the State law, was entirely proper and that the project was in a position to proceed.

We did proceed, and the project at the present time is about 90 percent complete, and an additional 9 percent is under construction, so we are pretty well along the road. The project has proceeded according to schedule and water deliveries have been made according to the original schedule which was entered into or which was promulgated in 1959. We are quite proud of this. There have been a number of problems but we are proceeding according to what the legislature, the previous administration, and this administration have ordered us to do.

We began the water services in south San Francisco Bay area in 1962, North San Francisco Bay area and San Joaquin Valley in 1968, and we are now moving water across the Tehachapi Mountains into southern California. We have contracts with 31 water service agencies for annual deliveries of 4,230,000 acres of water. Full use of this water will not occur till the end of the century. All of these contracts are on an ascending delivery scale.

However, I point out that all of the water users are paying their full share of the cost and they are doing it with a payment of interest so that all reimbursable costs will be repaid to the State.

I would like to point out that attached to our prepared statement we have a map showing the service areas, where we are delivering water from the State project. The service area runs roughly from almost the northern border of California all the way down to Mexico, to the Mexican border.

I would like to make this point with respect to these deliveries, that only 30 percent of the water from this project is going to agriculture; 70 percent is for municipal and industrial use. So 70 percent of the use of the water really has nothing to do with land ownership since it is for urban development. Most of the water which will be used for irrigation from our project, about 1,230,000 acre feet, which is 20 percent of the water supply, would be used in the San Joaquin Valley, with minor amounts being used elsewhere throughout the state.

You have asked the way in which our project would benefit large- and small-scale farmers in the areas it will supply. We have gone into that in the statement and I will not attempt to answer that in detail here. I am not an economist and essentially our project is a water supply project and not a land reform project.

I would point this out, however, that in this State any irrigation water, whether it comes from a project financed by the State or whether it comes from the Federal Central Valley project, which Mr. Pafford and Mr. Brody will talk to you about, or whether it comes from the water district or individual sources or wherever, any supply of water greatly reduces risk to the farmer and to urban water users, to everyone, and stabilizes our economy.

I would like to point this out, that with respect to irrigation deliveries of water, it is only one aspect of farming and I think whether it be the size of the operation of farming or labor available, farm management, financing to the farm or water, we have to remember this is only one part in the whole farming picture.

I would like to make a couple of other little comments here, again from the State point of view, without taking too much of your time.

Congressman Waldie I think has been misinformed or misinterprets some of the aspects of the State water project. He made the point that our project was formulated to avoid the Federal acreage limitation. This is not true. As I have said, 70 percent of the water from the project is going to municipal, industrial, and urban use which has nothing to do with an acreage limitation whatsoever. We are serving water for irrigation uses in the San Joaquin Valley. We have a multipurpose project and it makes sense to serve water where it is needed and where they can meet the State requirements. That is: pay the full reimbursable costs.

And I might say the reason I think that the State does not have a policy comparable to the acreage limitation of the Federal law is that there are no subsidies. The full costs are being repaid with interest and if there is no subsidy, I believe there is no need for any acreage limitation.

Mr. Waldie also mentioned the Federal-State partnership in San Luis Unit, that the State had somehow conned the Federal Government into using its money here and avoiding the Federal acreage limitation. Well, the fact of the matter is at San Luis, 55 percent of the cost of that project, which was $327 million, 55 percent of that, or 179 million, was paid by the State of California during construction, so there was no Federal investment in 55 percent of the facilities. At the present time the project is completed and the State is operating it. Since the State is paying 55 percent of the cost it should be entitled to use 55 percent of the facilities, which was exactly the deal which was approved by Congress, and which is in the contract we have with the Bureau of Reclamation and is the basis on which that unit of the project is being operated.

Senator **Stevenson.** I am sorry, you lost me there. Will you explain the Federal involvement more specifically.

Mr. **Towner.** Yes. The San Luis project is an off-stream storage reservoir which is geographically south of where we are sitting now. It stores about 2 million acre-feet, and it is physically adjacent to both the canals of the Federal Central Valley project and the State Water project. We have parallel canals going down the valley. It will be used really as a large reservoir. You pump water into it in the winter months when there is a lot of water flowing out to the ocean. You keep it there till the summertime when you need it and then you release it. So it is really not on a natural water course that amounts to anything, it is an off-stream storage reservoir. This site was adjacent to both the Federal canal and the State canal. We both liked the site.

The economy of scale dictated it would be a good deal if instead of building two little reservoirs, one for the State and one for the Federal Government, you built one big one and split the savings. As a matter of fact, under the engineering and construction savings we made there, I think we saved—Bob do you recall?

Mr. **Pafford.** $40 million out of $120 million.

Mr. **Towner.** So we saved a considerable percentage of the cost.

Senator **Stevenson.** When you referred to 55 percent being State facilities, you were referring to the canal and the reservoir?

Mr. **Towner.** I am referring to the reservoir primarily. We built this big reservoir, the State put up 55 percent of the cost and the Federal Government put up 45 percent of the cost. To oversimplify, we said we are partners in this arrangement. The State money is put up during construction. You don't repay it over a hundred years. You put it up when things are being built. We said the State should be entitled to use 55 percent of the water stored and the Federal Government to use 45 percent. This is a unique situation. It is the only place in the United States where such a partnership situation has occurred. It happened because California got into the water business, because it was financially able to do so. I think it is great that the Federal and State governments could cooperate in this situation.

Now, as far as the State is concerned——

Senator TAFT. Excuse me, but is the 45 percent subject to the Federal acreage limitation?

Mr. TOWNER. It certainly is. The 45 percent storage is serving the Westlands area which Mr. Brody was talking about. There, the Federal law applies.

The position of the State on this matter is that whatever the State law is, the State law should apply to 55 percent. If the State had an acreage limitation, fine; but as a matter of fact we do not. In any event it is our money and we figure this is a matter of States right and State law should govern on this matter. As a matter of fact, the Solicitor of the Department of the Interior, the Attorney General of the United States and its Congress by appropriating money for this project have concurred in this point of view.

Senator TAFT. The 45 percent is not to be repaid and it isn't funded by bonds and it isn't under repayment contract, it is under the Federal program, correct?

Mr. TOWNER. Yes, sir. It is under Federal repayment contracts which Mr. Pafford will refer to, but it is a different type of repayment contract. The State will have nothing to do with these federal contracts.

Senator TAFT. I understand that. I mean as to the Federal part, that is not going to be repaid to the Federal Government?

Mr. BRODY. It will be repaid by my district and other districts using the Federal portion of the capacity. In other words, we pay to the Federal Government and the State beneficiaries pay to the State.

Mr. TOWNER. We have 31 public-agency customers. They will pay all the cost of the State project. The Federal Central Valley project has its customers, under their rules and their laws. Under the Federal project the price of water, for example, in the San Joaquin Valley is cheaper because there are different rules of repayment. I won't get into that.

The only point I am trying to make is that the State does have a large investment in the project. We think the State law applies to this investment.

Now, as far as the future construction is concerned, I would like to say one word about this. Mr. Waldie said that Congress should not grant any assistance in building the Peripheral Canal. Well, this is a matter of policy. I would like to say this, however, that as far as fair deals are concerned this Peripheral Canal could be an arrangement similar to that at San Luis. The State would pay half of the cost, the Federal Government would pay half of the cost, and since you would have a partnership arrangement, I would assume that the State would govern half of the capacity of the canal under its laws and its rules and regulations, and the Federal Government would govern the use of the other half. I see nothing wrong in this and I think a great saving would occur to all concerned.

I think that is all I have to say.

Senator STEVENSON. Could you describe a little bit more specifically the project customers. I think you indicated that 70 percent of the project water went to municipal use.

Mr. TOWNER. Yes, sir.

Senator STEVENSON. Does that include in addition to municipalities, industrial customers, power companies?

Mr. TOWNER. That is correct, Senator. Everything but irrigation.

Senator STEVENSON. What is "everything"? How about municipalities?

Mr. TOWNER. Generally speaking in our trade you have the two categories, irrigation and municipal and industrial, and municipal and industrial includes everything but irrigation. Irrigation is only for the growing of crops. In other words, "M and I," would include the home gardener and the lawns and things like that, but nothing grown for commercial gain.

(The prepared statement of Porter A. Towner follows:)

PREPARED STATEMENT OF PORTER A. TOWNER, CHIEF COUNSEL OF THE DEPARTMENT OF WATER RESOURCES, SAN FRANCISCO, CALIF.

We are appearing at the request of the Chairman of the Subcommittee to present information on the State of California's water project.

For the benefit of members of the Subcommittee on Migratory Labor who are not from California, it may be helpful to describe briefly the State Water Project in order to provide a framework for our comments.

The 2.8 billion dollar project is the first statewide water resources development in the United States, and the largest single water development in the world to be financed at one time.

More than 70 per cent of the state's water supply originates north of the latitude of San Francisco Bay; however, more than 80 per cent of the people in California live in metropolitan areas from San Francisco south to the Mexican border. The State Water Project is being constructed to correct this imbalance and to provide, throughout its 600-mile route, a firm supply of good quality water, a guaranteed source of hydroelectric power, recreational sites readily available to urban areas, and the enhancement of fish and wildlife habitats for all Californians. Additionally, millions of dollars per year in flood damage prevention are realized.

About 90 per cent of the cost of the project is reimbursable and will be repaid in full at the going rate of interest for state bonds. The repayment and financing policy was not arrived at easily or without careful consideration. Two state administrations devoted a great deal of effort to studies that evaluated the various options the state might employ for financing and repaying costs of the project. Both houses of the state legislature devoted much time and conducted many public hearings over a several-year period to formulate the policies that are embodied in the Burns-Porter Act which authorized and financed the project after approval by the voters of the state in 1960. The legislative deliberations are summarized in a report dated February 1, 1960, of the Assembly Interim Committee on Water and in a report of the Senate Fact

Finding Committee on Water, dated March 1960. The Assembly report is entitled "Economic and Financial Policies for State Water Projects" and the Senate report is entitled "Contracts, Financing and Cost Allocation for State Water Development".

Several sources of funds were used to finance the capital needs of the project. General obligation bonds of the state were used to finance about 60 per cent of the total cost, with state oil and gas revenues, revenue bonds, and miscellaneous receipts accounting for most of the balance. Federal contributions, primarily for flood control benefits, have totaled 3 per cent of the cost of the project.

Construction of all project facilities necessary to meet water and power delivery requirements through mid-1973 is 90 per cent completed. An additional 9 per cent is being constructed under contracts already awarded.

The State Water Project began water service to the South San Francisco Bay area in 1962; to the North San Francisco Bay area and the San Joaquin Valley in 1968; and is now moving water across the Tehachapis into Southern California.

The state has contracts with 31 water service agencies for deliveries annually of 4,230,000 acre-feet of water. Full use of this water is not expected until near the end of this century. Location and amounts of water contracted are indicated below:

	a.f.
Upper Feather River area	39, 800
North San Francisco Bay area	76, 000
South San Francisco Bay area	188, 000
Western San Joaquin Valley	1, 355, 000
Central Coastal area	82, 700
Southern California	2, 497, 500
Total	4, 230, 000

A map showing the water service area for the project is attached to this statement.

Most of the project water used for irrigation will be in the San Joaquin Valley, about 1,230,000 acre-feet or 29 percent of the water supply. Nearly all the remaining 70 percent of project yield will be used in urban areas.

There are about eight and one-half million acres of irrigated land in California, about double that of 40 years ago. Looking 40 years ahead, our projections for 2010 indicate about ten million acres, a marked decrease in rate of growth as compared with the past. Of this latter estimate, the project will furnish irrigation water, both a new supply and a supplemental supply, to about 400,000 acres in the San Joaquin Valley, or about 4 per cent of the projected total statewide acreage. California is urbanizing at a rate of about 45,000 acres per year with about 25,000 acres of presently irrigated land being displaced by this process.

Your letter asked for information on ". . . the way in which the California Water Project will benefit large- and small-scale farmers in the area it will supply." The Department of Water Resources has major responsibility in the field of water management but not in areas of farm management, especially as it may relate to distinguishing benefits resulting from the uses of irrigation water by so-called big and small operators. The state has contracted for project water deliveries only with public water agencies. It has no water service contracts with individuals. Consequently, our information on such things as efficiencies of farm size, farm labor conditions, farm financing, and price-cost squeeze is not firsthand.

Water from the state project is higher priced than water would be from a federal reclamation project because all capital and interest and operating costs are passed on to the 31 agencies contracting for the water yield of the project. Therefore, very careful management of agricultural land using such water will be required if irrigation is to be profitable.

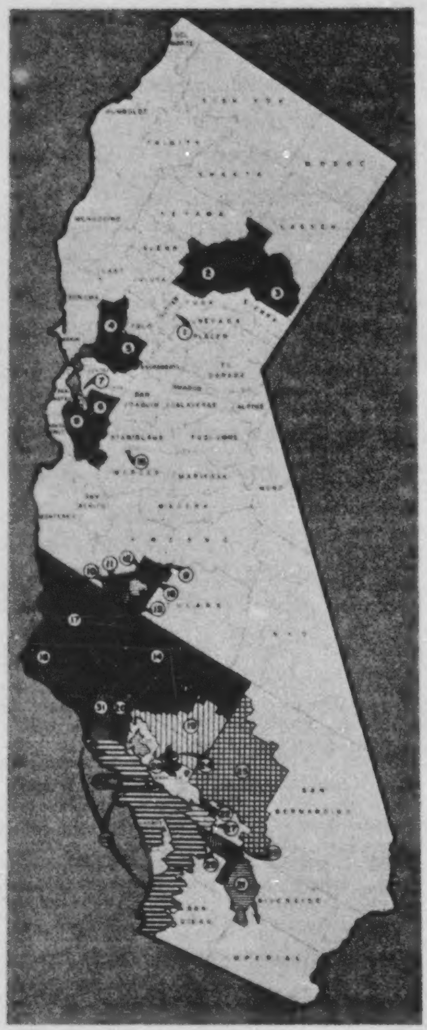
The price-cost squeeze in farming is a nationwide problem, not one peculiar to California. Statistics indicate a long-term trend towards the increasing size of farms, but this phenomenon, also, is nationwide. One common practice in California agriculture is for a farmer to combine the acreages of several small adjacent ownerships in order to form an economic operating unit. Rent may be paid either on a cash or cropshare basis.

In the newly developing state project service area this procedure has become an established practice. Thus, farm operators are able to spread the costs of expensive equipment and supplies over sufficient units of land and crop yield to realize an economic return. Also, landowners are enabled to receive return on their land investment which otherwise could not bear the high costs of development and operation.

In California, any irrigation water, whether from the State Water Project or the federal Central Valley Project, or from a water district or individual source, greatly reduces risk and uncertainty and stabilizes farming operations. Available water also stabilizes the economy of the towns and cities which depend on farming. Only under irrigation can the widest possible array of food and fiber be produced, and the quality of product maintained. However, irrigation water is only one of many inputs in the total process of agricultural production. Therefore, whenever we focus on some aspect of farming, whether it be size of operation, or farm labor, or farm management, or farm financing, or water, we must remember that each of these plays only a part in the total production picture.

(Information supplied for the record follows:)

LONG-TERM WATER SUPPLY CONTRACTING AGENCIES



Location No.	Contracting Agency	Maximum Annual Entitlement (acre-feet)	Gross Area as of July 1, 1970 (acres)	Assessed Valuation (1970 - 1971)	Estimated population (July 1, 1970)
	UPPER FEATHER AREA				
1	City of Yuba	9,600	3,100	29,700,000	14,000
2	County of Butte	27,500	1,067,600	268,321,200	100,800
3	Plumas County Flood Control and Water Conservation District	2,700	1,646,000a	96,460,100a	11,400a
	Subtotal	39,800	2,716,700	394,481,300	126,200
	NORTH BAY AREA				
4	Napa County Flood Control and Water Conservation District	25,000	498,000	172,979,000	77,500
5	Solano County Flood Control and Water Conservation District	42,000	538,400	375,497,900	166,600
	Subtotal	67,000	1,036,400	548,476,900	244,100
	SOUTH BAY AREA				
6	Alameda County Flood Control and Water Conservation District, Zone 7	46,000	272,000	219,382,700	82,000
7	Alameda County Water District	42,000	60,300	360,970,700	120,000
8	Santa Clara County Flood Control and Water District	100,000	832,300	1,083,152,700	1,060,800
	Subtotal	188,000	1,164,600	1,663,506,100	1,262,800
	SAN JOAQUIN VALLEY AREA				
9	County of Kings	4,000	895,000	151,364,400b	64,300
10	Devil's Den Water District	12,700	6,500	1,257,600	[illegible]
11	Dudley Ridge Water District	57,700	29,900	6,588,100	[illegible]
12	Empire West Side Irrigation District	3,000	7,500	757,700	[illegible]
13	Hacienda Water District	8,500	15,300	229,400	[illegible]
14	Kern County Water Agency	1,153,400	5,057,200c	1,098,862,200c	349,700c
15	Oak Flat Water District	5,700	2,500	275,000	[illegible]
16	Tulare Lake Basin Water Storage District	110,000	195,000	22,184,100	[illegible]
	Subtotal	1,355,000	6,203,900	1,211,660,400	414,000
	CENTRAL COASTAL AREA				
17	San Luis Obispo County Flood Control and Water Conservation District	25,000	2,131,300	387,560,400	106,000
18	Santa Barbara County Flood Control and Water Conservation District	57,700	1,756,900	699,543,000	261,300
	Subtotal	82,700	3,888,200	1,087,103,400	367,300
	SOUTHERN CALIFORNIA AREA				
19	Antelope Valley-East Kern Water Agency	138,400	1,421,900	387,426,400d	96,700
20	Castaic Lake Water Agency	41,500	125,000	179,462,500	58,200
21	Coachella Valley County Water District	23,100	610,200	221,296,900	57,700
22	Crestline-Lake Arrowhead Water Agency	5,800	52,700	46,760,500	12,000
23	Desert Water Agency	38,100	220,500	142,262,900	20,500
24	Littlerock Creek Irrigation District	2,300	43,300e	4,200,900	1,500
25	Mojave Water Agency	50,800	3,160,400	367,000,000	60,900
26	Palmdale Irrigation District	17,300	73,900	19,277,600	22,300
27	San Bernardino Valley Municipal Water District	102,600	152,100	586,416,600	318,400
28	San Gabriel Valley Municipal Water District	28,800	16,200	350,790,400	147,900
29	San Gorgonio Pass Water Agency	17,300	140,600	55,577,300	26,400
30	The Metropolitan Water District of Southern California	2,011,500	3,072,100	27,605,964,300	10,700,000
31	Ventura County Flood Control District	20,000	1,179,900f	1,127,152,300f	377,400f
	Subtotal	2,497,500	10,269,200	30,957,480,300	11,419,600
	TOTAL	4,230,000	25,280,000e	37,606,477,600e	13,651,900e
	NET AREA TOTAL	4,230,000	24,533,000g	36,817,333,100g	13,614,400g

a) Total for Plumas County, including Last Chance Creek Water District.
b) Total for Kings County, including Dudley Ridge Water District, Empire West Side Irrigation District, Hacienda Water District, most of Tulare Lake Basin Water Storage District, and about 40% of Devil's Den Water District.
c) Total for Kern County, including about 60% of Devil's Den Water District, and about 50% of Antelope Valley-East Kern Water Agency.
d) Total for Antelope Valley-East Kern Water Agency includes assessed valuation for California City of $24,311,000 but excludes City's area and population.
e) Includes duplicate values for overlapping agency areas.
f) Total for Ventura County, including about 8,400 acres in Antelope Valley-East Kern Water Agency, 214,700 acres in The Metropolitan Water District of Southern California, and about 8,400 acres in Castaic Lake Water Agency.
g) Excludes all overlapping areas.

Senator STEVENSON. Let's continue with Mr. Pafford and then we can come back to questions.

STATEMENT OF ROBERT J. PAFFORD, JR., REGIONAL DIRECTOR, REGION 2, U.S. BUREAU OF RECLAMATION

Mr. PAFFORD. Mr. Chairman, Senator Taft, I am pleased to be here to respond to your invitation for information. I have furnished your staff with a statement that will outline in considerable detail what I believe are things you are after.

Senator STEVENSON. It will be entered in the record.

Mr. PAFFORD. I will not read it in the interest of saving time.

I might say first of all, I am regional director of region 2 of the Bureau of Reclamation which includes only that part of California which is north of the greater Los Angeles area, north of the Tehachapi Mountains.

Early in the reclamation program shortly after the time of the 1902 act, were two small projects in California, the Klamath project on the Oregon border and the Orland project on the west side of the Sacramento Calley, which have been quite successful although very old projects.

Where our major operation here in region 2 came about was through the assistance that was asked of us by the State of California to help in preserving and enhancing the agricultural economy of the great Central Valley. Here, as elsewhere in the West, the irrigated agriculture came in late in the last century by simple diversion of streams, and then by extensive use of ground water resources, but which were being exhausted rapidly.

The State came up with its own plan in the late 1920's, they had it passed by the people. They went to sell the bonds in 1933, and because of the economic conditions of the country they couldn't sell them so the Federal Government was asked to come in and aid with the program here. This was followed through by actions of the Congress and the administration. I might say that this project has been of tremendous value to the economy of California and particularly to the agricultural economy.

If you look at the most recent list of the 10 leading counties of agricultural production in the United States we find that Fresno County is No. 1 in the United States, Tulare County is No. 2, Kern County is No. 3, San Joaquin County is No. 6, Stanislaus County is No. 10. All are served by our project. They would not be in that position were it not for the Central Valley project and the part it played in maintaining agricultural production.

I would say briefly of the total Central Valley project that it delivers water to 75 different water districts who in turn sell water to the individual farmers. These water districts range in size from Mr. Brody's Westlands District of 600,000 acres down to the Swinford Tract Water District of about 190 acres. In certain areas, particularly the Sacramento Valley, we also sell to individual landowners. For instance, we serve directly 130 individual landowners along the Sacramento River Valley. Based on projections of the 1964 census information, we estimate some 12,500 small farm families in the slightly under 2 million acre Central Valley service area benefit directly from the reclamation water supply.

In addition, our water is supplied particularly on an interim basis during periods of recordable contracts, to numbers of corporately-owned lands or in some cases to corporate-like farm enterprises that operate land owned by individuals. They operate it for them and pay the rental or share the profits with individuals.

I would like to emphasize that agriculture is California's primary industry and biggest employer. If you take the economic base that springs from agriculture, it has been derived by many people and approximately checked by my economists, one out of every four of California's employed during 1969 were employed with a job in the fields, in transport, machinery, other implements, feed, fertilizer, specialized services, the processing and handling of agricultural products. So of all the people employed in California, one job in every four stems from the economic impetus that comes from agriculture, and about 20 percent of that impetus would not be there if it were not for water supplied by the Central Valley Water project.

I mentioned water deliveries. We started water deliveries in 1941 with just a few thousand acre-feet. We are now delivering three and a quarter million acre-feet or more per year. We have delivered some 37 million acre-feet of water through the project since it came into operation. This water has made possible the production of crops with a gross value of $5.8 billion through 1969. The 1969 crop alone had a gross value of $542 million. By way of comparison, the investment to date in Central Valley project facilities totals some $1.3 billion.

I would like to point out that while reclamation irrigation water isn't exactly given away here, it definitely is considered to be less expensive than other possible alternative sources. In some cases the possibility of developing water locally without tremendous projects is impossible. In other cases they are beyond the financial capabilities, particularly in the areas of the small farm ownership. But through the action of various provisions of reclamation law the agricultural user of reclamation water does receive assistance in the cost of his water supply. For instance, the Federal investment in the portion of the reclamation program devoted to irrigation water development—not the power and municipal—but the irrigation water development, is repayable without interest, usually over a period of 50 years. Repayment of the cost of development is sometimes further reduced if the ability of the farmer to pay in the project service area is insufficient. This is quite important in the case of the smaller holdings, in the relatively poor agriculture areas. Revenues from the sale of hydroelectric power generated by Bureau powerplants provide much of this assistance. Then going on to the water district, and again I think it is important to the more marginal smaller farmer, the common practice is to divide the water cost between the farmer and the ad valorem tax base. This, incidentally, provides quite an incentive in the case of the Westlands project for the larger owners to dispose of their land because, as I understand it, about half of the total repayment comes from ad valorem cost which they pay whether they get project water or not, and the other part comes from the use of water.

The way conditions are, the way the ground water is being depleted, water being used for other purposes, we feel that about half of the acres that are being irrigated by the Federal project would have to revert to dry farming in California if it weren't for the services provided by the project.

Now another point. Slightly different than in the Westlands District, I would point out that about 84 percent of the area that we serve with water gets what we call supplemental irrigation service. That is, we furnish the additional water it takes to raise the crops beyond what they have from local streams and what they can take from ground water without exhausting the ground water to raise the crops. The very fact, though, that we do furnish water supplemental to that used from ground water helps to preserve the ground water levels for the future. And in many cases we have integrated operations so in effect, some of our excess water in wet years ends up with the farmer storing it underground where there is no evaporation.

Your letter of invitation, and certain testimony now, indicated a special interest in the role played in recent years by the 160-acre limitation in this area. I would like to get into that with some facts.

As of December 31, 1970, there were about 2,300,000 acres of irrigable land within the area of the Central Valley Project; that is, land physically capable of being served and covered by appropriate water service contracts. Of this 2,300,000 acres, 1,400,000 acres is nonexcess land; that is, it means it is land that is restricted to farms of 160-acre limitation, 160 acres for an individual and 320 acres for a man and wife, so it is legally entitled to receive Federal water under the acreage limitation provisions. The remaining 878,000 acres in this area that we could serve, and is covered in contracts, falls into two general categories, excess lands that are not eligible to receive excess water and do not receive it, and excess land eligible to receive water by virtue of recordable sales contracts as has been mentioned by Mr. Brody and others.

Now, I mentioned the expiration of these contracts. Not only do we have the right in the contracts to dispose of the land but I personally have acted as the agent of the Secretary of the Interior in disposing of lands where they have not been disposed of by the owner. In fact, the first such sale made in the United States to my knowledge under reclamation law was the sale of Di Giargio Corp. starting in 1964, in my administration. That was a relatively small holding of very valuable land, something around 4,000 acres, which took about 2 years to dispose of.

Going ahead, of the 246,000 acres that have been placed inder recordable contracts for the project, 65,000 acres have been sold either voluntarily or by the Secretary of the Interior. The remaining 181,000 acres are still within the 10-year time limit except for a very few thousand acres which currently are in the process of being sold. Now, the other 697,000 acres of excess land, while physically capable of being served, and which is contributing in many cases to ad valorem taxes toward the payment of the water supply, just simply does not receive water.

I mentioned in my statement the Westlands situation, and Mr. Brody has covered it very well.

There has been a lot of skepticism whether these large landowners would break up the property. It has been rather pleasing to us, over 200,000 acres are already broken up; or are on the way to being broken up through recordable contracts that have been signed, which are being signed just as rapidly as our rather slow-moving construction program gets water to the land. So I think the effect of the acreage limitation and its administration in the Central Valley of California has been to emphasize one trend towards the breakup of large, single-ownership of agricultural landholdings, even though we have the other trend we have heard about otherwise.

There are factors definitely affecting the economics of agriculture production and they, as you have heard, tend to be working towards a trend to increase the size of small farms. I am talking of the economic factors now. Something will have to be done economically if we want to get the social factors in to break up this trend, as has been recommended by Mr. Brody and previous witnesses.

Just looking at the people we serve and some estimates we have made, using 1964 census data and some of our own supplements, in 1968 we found the small farms on the average have been trending towards operating units of about 200 or 300 acres in San Joaquin Valley. When I say small farms, we serve many farms with just 20 to 40 acres. The 20-acre ones are not economically self-sufficient, they are run as an auxiliary by somebody who has other part-time employment. In certain cases, and I believe you heard this in Fresno, with certain crops 40 to 80 acres will still provide a sufficient income, but they are the exception, they are the high-value specialty crops.

We don't feel that there is any doubt that the availability of the Bureau's stable, moderately priced water supply here in California is strongly underpinning the family farm in California. Otherwise farm units could not have been operated economically in their present form with the price water would have cost them without Bureau service, if they could have obtained water. They could not have remained competitive in the agricultural marketplace.

So I think that the combined effects of the acreage limitation and the federally subsidized water supply, with the lower-cost water, have added a very considerable force in slowing down, at least, the trend towards large farm sizes in California.

I believe, on balance, the program has been of help.

Now, there has been quite a bit said about administration of the excess land laws. That is one of the more controversial elements of our program. And like with many things that have effects on people's lives or, in particular, their pocketbooks, there are quite widely divided opinions. There is a strong minority opinion that the excess land laws are wrong, they shouldn't be there, you should let supply and demand and economics run and that our administration is far too tough. There is also a very strong and very vocal opinion, which also seems in the minority as far as the Congress and the courts are concerned as to what the law means. It contends the law isn't tough enough or that if the law is tough enough it isn't being administered. Well, I don't see anything too different here than many other trends. You get the same arguments on tariffs, foreign relations or many other things. But I can say in clear conscience that we are administering the excess land laws effectively in accordance with the guidelines that have been laid down by the courts, by the Congress and by legal rulings of an independent branch of the Interior Department, the Solicitor's office who sets the legal framework.

Mr. Chairman, that concludes the summary of my statement.

Senator STEVENSON. Thank you, Mr. Pafford.

(The prepared statement of Robert J. Pafford Jr., follows:)

PREPARED STATEMENT OF ROBERT J. PAFFORD, JR., REGIONAL DIRECTOR, REGION 2, U.S. BUREAU OF RECLAMATION, CALIFORNIA

My name is Robert J. Pafford, Jr. I am Regional Director of Region 2 of the U.S. Bureau of Reclamation. My area of responsibility in California generally covers the portion of the state north of the Tehachapi Mountains.

One of the earliest Reclamation developments, the Klamath Project on the California-Oregon border, made its first water delivery in 1907.

With the exception of the relatively small Orland Project, on the west side of the Sacramento Valley, no further federal development of irrigation works was undertaken in the Region 2 portion of California before 1935, the date of the first federal appropriation for the Central Valley Project, one of the world's largest and most dynamic agricultural water developments.

The history of irrigated agriculture in the Central Valley of California (actually two river valleys—the Sacramento and San Joaquin) began in the 19th Century with direct diversions of the limited streamflows. The California Gold Rush pushed the use of these methods to the limit of their crude capabilities. Following the advent of electrical power around the turn of the century, pumping of ground water provided a larger, more reliable, water supply. Using the water available from small river diversions and the ground) irrigated agriculture in the Central Valley grew rapidly in the early 1900's and reached a total of some two million acres in the 1920's. Development in the next decade, however, leveled off because of drought and poor economic conditions. It also became apparent that the vital ground-water supply was not inexhaustible. Well water levels were falling at an alarming rate, particularly in the San Joaquin Valley where extensive development had taken place.

The need for more water was apparent and it was obvious that the answer lay in control of the erratic San Joaquin Valley streams and import of supplemental supplies from other areas, principally the Sacramento River drainage. Large water developments were needed to maintain the existing Central Valley economy as well as allowing further expansion.

In response to the problem, the California legislature developed a plan to store surplus flood water in the mountain streams of the north part of the state and transport the conserved water to the south. The plan was approved by the voters and in 1933 authorization was given to sell state bonds to provide the necessary capital for implementation. But the Depression of the 1930's made it impossible to carry out the plan. The bonds simply were not saleable.

California then appealed to the Congress of the United States for help and in 1937 the Congress responded by formally authorizing construction of the Central Valley Project by the Bureau of Reclamation. (Some funds were actually provided as early as 1935 under the Emergency Relief Appropriation Act. A finding of feasibility by the Secretary of the Interior occurred during that same year.)

Today, thanks mainly to the Federal Central Valley Project, major rivers have been tamed and harnessed, ground-water tables have been stabilized, major flooding has been prevented, and up to three million acre-feet of water is delivered annually through a series of reservoirs and canals to farm lands and cities hundreds of miles distant from the major Central Valley Project dams.

The federal control structures on southern San Joaquin Valley rivers combined with the facilities to control water in northern California and deliver it to the San Joaquin Valley have provided much of the water that is used to irrigate some of the richest farm land in the world. The most recent list of the ten leading counties in the United States in farm productivity includes five counties served by the Central Valley Project: Fresno County, No. 1 in the nation; Tulare County, No. 2; Kern County, No. 3; San Joaquin County, No. 6; and Stainslaus County, No. 10.

The project delivers water to 75 water districts ranging in size from the Westlands Water District of about 600,000 acres down to the Swinford Tract Water District of about 190 acres. It also serves directly about 130 individual water contractors, principaliy in the Sacramento Valley. Based on projections of 1964 census information, we estimate there are some 12,500 small farm families in the 1.8 million acre San Joaquin Valley portion of the CVP service area directly benefiting from the supply of Reclamation agricultural water. In addition, of course, water is supplied to numbers of corporate-like farm enterprises where several parcels of indivudually-owned land are farmed as a single unit, and to some large corporate farms, all under the provisions of the 160-acre limitation.

Agriculture is California's primary industry and biggest employer, providing about one out of every four Californians employed during 1969 with a job, in the fields; in transport; in providing machinery and other implements, seed, fertilizer and specialized services required by the modern farmer; and in the processing and handling of agricultural products. Without a stable supplemental water supply, of course, very little of this would have been possible. Much of the San Joaquin Valley would undoubtedly have reverted to a desert-like condition, thinly populated and capable of only the most meager productivity. The Sacramento Valley could never have expected to achieve its potential productivity.

Copious amounts of water are required to meet the agricultural needs of the Central Valley Project service area. Over the years since 1941 when the first water was delivered via the Contra Costa Canal, use of Central Valley Project water has increased to a high point of 3,279,000 acre-feet during the 1970 fiscal year. Through 1971 a cumulative total of 36,319,000 acre-feet of water has been delivered to irrigated farms through Central Valley Project facilities. This water has made possible the production of crops with a gross value of 5.8 billion dollars through 1969. The 1969 crop alone had a gross value of 542.2 million dollars. By way of comparison, the investment to date in Central Valley Project facilities totals some 1.3 billion dollars.

While reclamation irrigation water isn't exactly given away in California, it is considerably less expensive than other possible alternative sources. In many cases the possibility of locally funded alternative developments simply doesn't exist, for want of sufficient local capital or an available water resource, or both. Through the action of various provisions in reclamation law, the agricultural user of reclamation water receives assistance in meeting the cost of his water supply. The federal investment in the portion of the reclamation program devoted to irrigation water development is repayable without interest, over a usual period of 50 years. Repayment of the costs of development is sometimes further reduced, if the "ability to pay" of farmers in the project service area is insufficient. Revenues from the sale of hydro-electric power generated by Bureau power plants, in projects like CVP, assist in holding down the cost of water to the irrigator. In addition, a common practice among water districts in California is to divide their water costs between the farmer and the ad valorem tax base, thus at once more equally spreading the burden to indirect as well as direct beneficiaries and holding down the cost to the irrigator.

Our estimates indicate that more than half of the acres that reclamation irrigates in the California portion of Region 2 would probably have to revert to dry farming without the reclamation program. Since dry farming in California has historically been based on very large single ownerships for economic reasons, we believe that nearly 873,000 acres, composed mostly of family-size farms, remain competititve in the agricultural marketplace, due principally to reclamation activities.

About 84 per cent of the Region 2 service area in California receives supplemental irrigation service. That is, the projects (Central Valley Project, plus five smaller projects) supply sufficient supplemental water to make up the difference between water available locally, principally ground water, and the amount actually needed to irrigate crops being grown on the land. An important benefit, therefore, is the effect of our activities on ground water, particularly in the San Joaquin Valley service area of the Central Valley Project.

Many parts of the valley would either be without water or most certainly on the verge of drying up without the Central Valley Project. Through judicious conjunctive use of both ground water and project water, the ground-water level has generally been stabilized in those areas receiving Central Valley Project water, thus saving for continued future use a valuable water resource. At the same time, continued high crop production has been possible.

Since your letter of invitation to testify today indicated a special interest in the role played in recent years by the 160-acre limitation in this area, I should like to conclude my summary discussion with some comments on that subject.

As of December 31, 1970, there were about 2.3 million acres of irrigable land within the Central Valley Project; that is, land physically capable of being served and covered by appropriate water service contracts. Of this amount, 1.4 million acres is nonexcess land, legally entitled to receive federally developed water under acreage limitation provisions of reclamation law, the so-called 160-acre limitation which provides that federal water may not be delivered to more than 160 acres per individual owner. The remaining 878,000 acres falls into two general categories: (1) Excess lands not eligible to receive project water; and (2) Excess lands eligible to receive water by virtue of recordable sales contracts calling for sale within ten years to buyers who would meet the requirements of the 160-acre limitation. (Should the excess owner fail to comply within the ten-year period, power to sell vests in the Secretary of the Interior.) Such sales may not reflect any value attributable to federal water in the sale price. About 246,000 acres have been placed under such recordable contracts since 1951 and 65,000 acres have been sold either voluntarily or by the Secretary of the Interior. The remaining 181,000 acres under recordable contracts are either still within the ten-year time limit, or in the process of being sold by the Secretary. The remaining 697,000 acres of excess land, while physically capable of being served and assisting, in many cases, with local repayment obligations through ad valorem taxes, does not receive project water.

Our largest single block of excess lands, some 430,000 acres, is located in the Westlands Water District, which is receiving initial service from the San Luis unit of the Central Valley Project. Currently, we are physically capable of serving about 300,000 of Westlands' 567,000 acres. About 90 percent of the acreage we can presently serve is eligible to receive project water, including some 200,000 acres under recordable contracts and the remainder in nonexcess status. Thus, about half of Westlands can be served at the present time, and about 50 percent of the district's total excess lands are under contract for sale into smaller ownerships within ten years.

As these figures readily indicate, the effect of the acreage limitation in the Central Valley of California has been to emphasize the trend toward the breakup of large, single-ownership agricultural landholdings.

Conversely, at the other end of the size scale, factors affecting the economics of agricultural production, including the cost and availability of irrigation water, appear to be strengthening a trend toward increase in the size of small farms. In 1968 a comparison was made of farm and ownership size groups, using 1964 census data and the 1968 Region 2 Bureau of Reclamation "Summary of Land Ownerships". The comparison showed that the size of small farms was trending toward operating units of about 200 to 300 acres in the San Joaquin Valley.

There is no doubt that the availability of a stable, moderately priced water supply is a strong underpinning of the family farm in the Region 2 portion of California. Farm units that otherwise could not operate economically in their present form and size remain competitive in the agricultural marketplace.

It is apparent that the combined effects of the acreage limitation, and a federally subsidized water supply, have been a strong moderating force in farm sizes in California.

I believe, on balance, the effect of the reclamation program in California's Central Valley has been beneficial to the interests of the family farmer and the agricultural worker, and to the nation. The family farm remains a viable economic unit; over 400,000 workers in agriculture and associated industries are employed; and one of the richest farming areas in the world continues to deliver up its bounty at each harvest. I think it is safe to say that this situation is due in large measure to the reclamation program. In my opinion, without these great water developments, and the financial structure which makes them possible, the benefits now enjoyed by the people of this area could never have been achieved.

Gentlemen, that concludes my oral presentation. If you have questions, I will be most pleased to respond.

(Information supplied for the record follows:)

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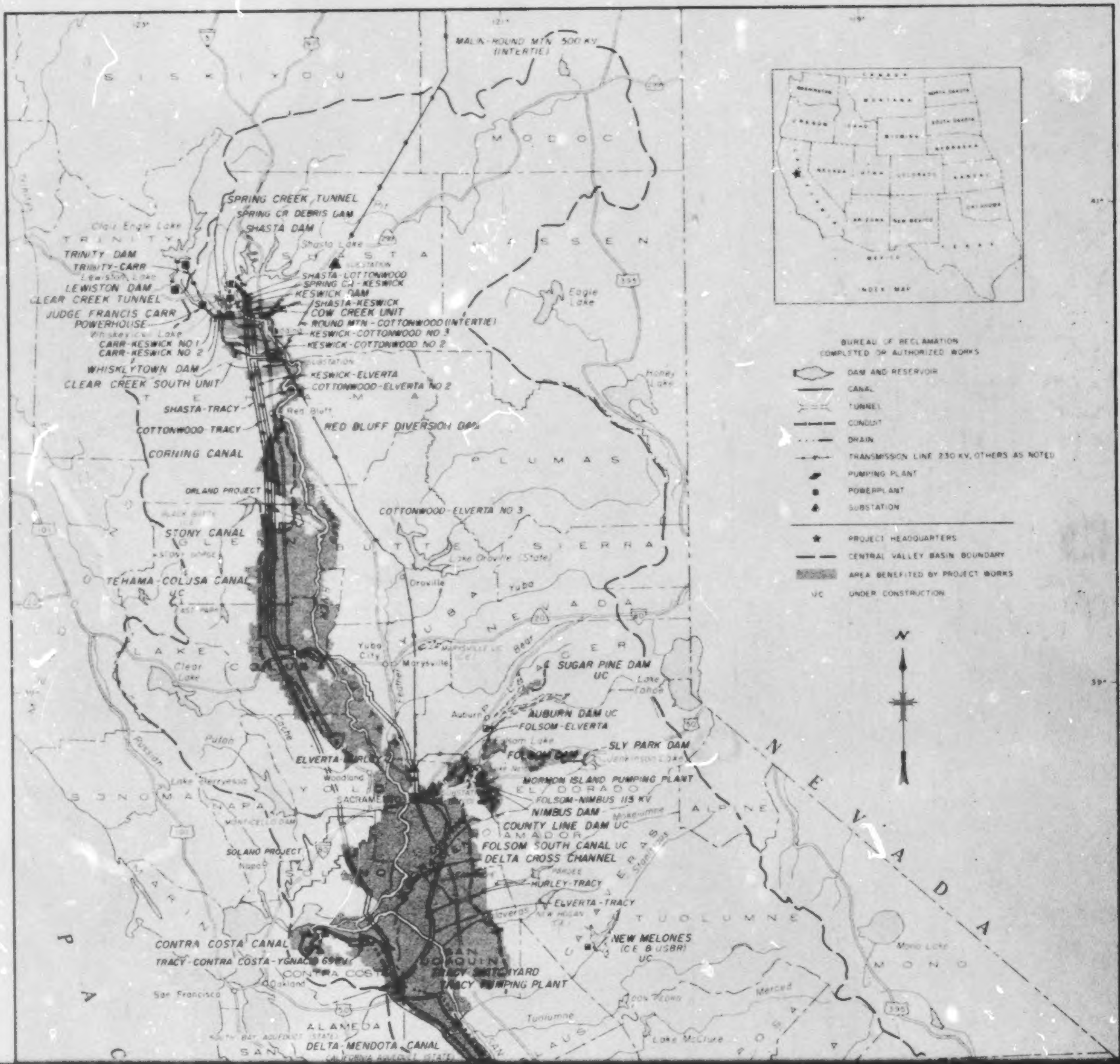

BUREAU OF RECLAMATION
COMPLETED OR AUTHORIZED WORKS
DAM AND RESERVOIR
CANAL
TUNNEL
CONDUIT
DRAIN
TRANSMISSION LINE 230 KV, OTHERS AS NOTED
PUMPING PLANT
POWERPLANT
SUBSTATION
PROJECT HEADQUARTERS
CENTRAL VALLEY BASIN BOUNDARY
AREA BENEFITED BY PROJECT WORKS
UC UNDER CONSTRUCTION
INDEX MAP
CANADA
WASHINGTON
MONTANA
NORTH DAKOTA
OREGON
IDAHO
SOUTH DAKOTA
WYOMING
NEBRASKA
NEVADA
UTAH
COLORADO
KANSAS
OKLAHOMA
ARIZONA
NEW MEXICO
TEXAS
MEXICO
N
SISKIYOU
MODOC
LASSEN
SHASTA
TRINITY
TEHAMA
PLUMAS
GLENN
BUTTE
SIERRA
YUBA
NEVADA
PLACER
LAKE
COLUSA
SONOMA
NAPA
YOLO
SACRAMENTO
EL DORADO
ALPINE
AMADOR
CALAVERAS
TUOLUMNE
MONO
MARIN
CONTRA COSTA
SAN JOAQUIN
ALAMEDA
SAN
PAC
MALIN-ROUND MTN. 500 KV (INTERTIE)
SPRING CREEK TUNNEL
SPRING CR. DEBRIS DAM
SHASTA DAM
Shasta Lake
Clair Engle Lake
TRINITY DAM
TRINITY-CARR
Lewiston Lake
LEWISTON DAM
CLEAR CREEK TUNNEL
JUDGE FRANCIS CARR POWERHOUSE
Whiskeytown Lake
CARR-KESWICK NO 1
CARR-KESWICK NO 2
WHISKEYTOWN DAM
CLEAR CREEK SOUTH UNIT
SUBSTATION
SHASTA-COTTONWOOD
SPRING CR.-KESWICK
KESWICK DAM
SHASTA-KESWICK
COW CREEK UNIT
ROUND MTN.-COTTONWOOD (INTERTIE)
KESWICK-COTTONWOOD NO 3
KESWICK-COTTONWOOD NO 2
SUBSTATION
KESWICK-ELVERTA
COTTONWOOD-ELVERTA NO 2
SHASTA-TRACY
COTTONWOOD-TRACY
Red Bluff
RED BLUFF DIVERSION DAM
CORNING CANAL
ORLAND PROJECT
Black Butte
STONY CANAL
Stony Gorge
TEHAMA-COLUSA CANAL UC
East Park
COTTONWOOD-ELVERTA NO 3
Lake Oroville (State)
Oroville
Yuba
Yuba City
Marysville
Feather
Bear
Clear Lake
Cache
Putah
Russian
Lake Berryessa
MONTICELLO DAM
SOLANO PROJECT
Napa
Eagle Lake
Honey Lake
SUGAR PINE DAM UC
Lake Tahoe
Auburn
AUBURN DAM UC
FOLSOM-ELVERTA
Folsom Lake
FOLSOM DAM
SLY PARK DAM
Jenkinson Lake
MORMON ISLAND PUMPING PLANT
FOLSOM-NIMBUS 115 KV
NIMBUS DAM
Mokelumne
COUNTY LINE DAM UC
FOLSOM SOUTH CANAL UC
DELTA CROSS CHANNEL
Pardee
HURLEY-TRACY
ELVERTA-TRACY
New Hogan
NEW MELONES (CE & USBR) UC
ELVERTA-HURLEY
Woodland
CONTRA COSTA CANAL
TRACY-CONTRA COSTA-YGNACIO 69 KV
TRACY SWITCHYARD
TRACY PUMPING PLANT
San Francisco
Oakland
South Bay Aqueduct (State)
DELTA-MENDOTA CANAL
CALIFORNIA AQUEDUCT (STATE)
Don Pedro
Tuolumne
Merced
Lake McClure
Mono Lake
NEVADA
101
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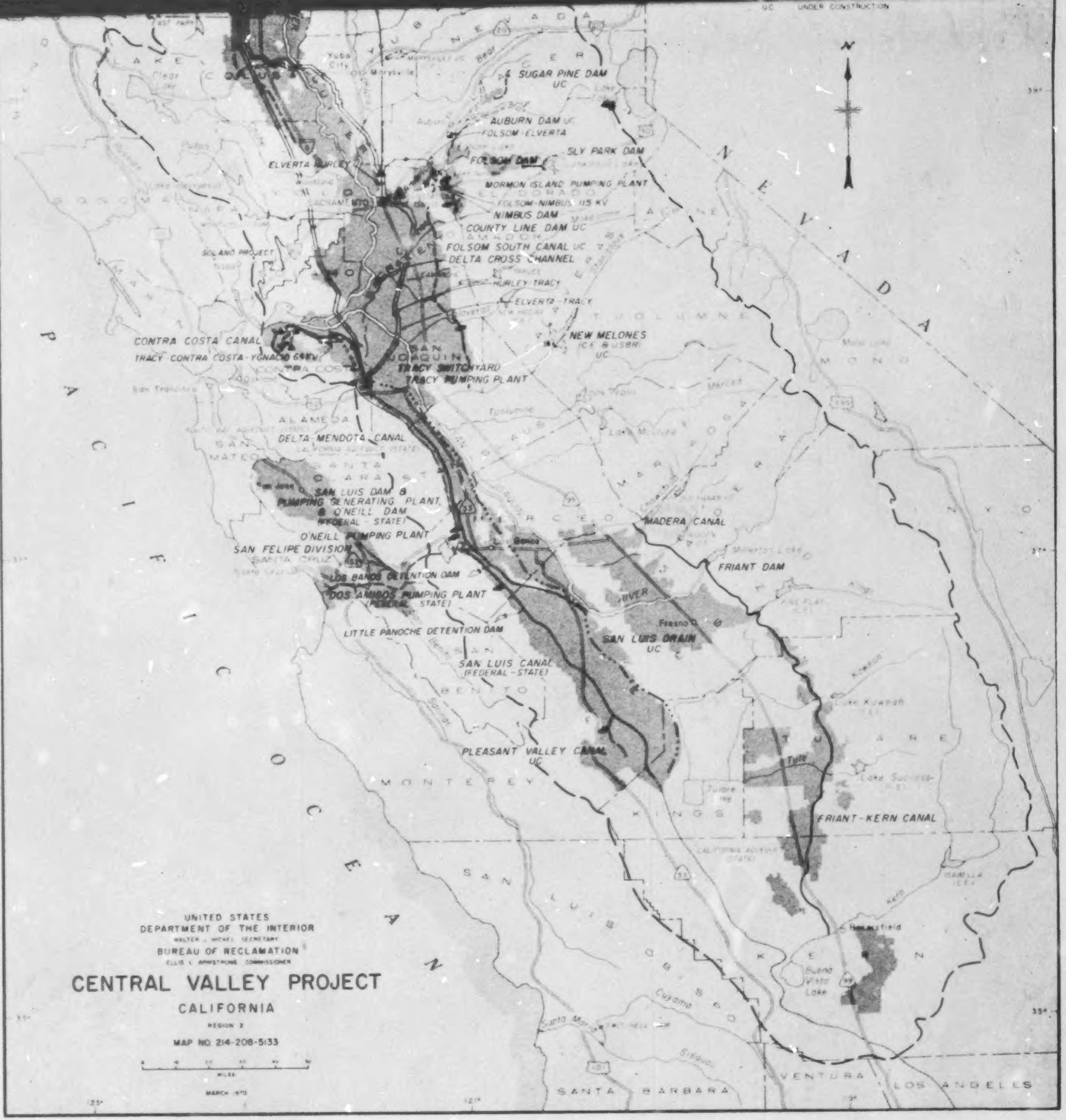
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UNITED STATES
DEPARTMENT OF THE INTERIOR
WALTER J. HICKEL SECRETARY
BUREAU OF RECLAMATION
ELLIS L. ARMSTRONG COMMISSIONER
CENTRAL VALLEY PROJECT
CALIFORNIA
REGION 2
MAP NO. 214-208-5133
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MILES
MARCH 1970
SUGAR PINE DAM UC
AUBURN DAM UC
FOLSOM-ELVERTA
SLY PARK DAM
FOLSOM DAM
MORMON ISLAND PUMPING PLANT
FOLSOM-NIMBUS 115 KV
NIMBUS DAM
COUNTY LINE DAM UC
FOLSOM SOUTH CANAL UC
DELTA CROSS CHANNEL
HURLEY-TRACY
ELVERTA-TRACY
NEW MELONES (CE & USBR) UC
ELVERTA HURLEY
SOLANO PROJECT
CONTRA COSTA CANAL
TRACY CONTRA COSTA-YGNACIO 69 KV
TRACY SWITCHYARD
TRACY PUMPING PLANT
DELTA-MENDOTA CANAL
SAN LUIS DAM & PUMPING GENERATING PLANT, & O'NEILL DAM (FEDERAL-STATE)
O'NEILL PUMPING PLANT
SAN FELIPE DIVISION
LOS BANOS DETENTION DAM
DOS AMIGOS PUMPING PLANT (FEDERAL-STATE)
LITTLE PANOCHE DETENTION DAM
SAN LUIS CANAL (FEDERAL-STATE)
PLEASANT VALLEY CANAL UC
MADERA CANAL
FRIANT DAM
SAN LUIS DRAIN UC
FRIANT-KERN CANAL
Yuba City
Marysville
Sacramento
San Francisco
San Jose
Fresno
Bakersfield
Millerton Lake
Tulare Lake
Buena Vista Lake
LAKE
SONOMA
YOLO
PLACER
EL DORADO
AMADOR
TUOLUMNE
MONO
INYO
SAN JOAQUIN
CONTRA COSTA
ALAMEDA
SAN MATEO
SANTA CLARA
SANTA CRUZ
STANISLAUS
MERCED
MARIPOSA
MADERA
FRESNO
TULARE
KINGS
SAN BENITO
MONTEREY
SAN LUIS OBISPO
KERN
SANTA BARBARA
VENTURA
LOS ANGELES
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FACTUAL DATA ON THE CENTRAL VALLEY PROJECT

California's vast Central Valley Project, one of the nation's major water conservation developments, extends from the Cascade Range in the north to the semiarid but fertile plains along the Kern River in the south.

The initial features of the project, authorized by President Roosevelt in 1935 for construction by the Bureau of Reclamation, included:

Shasta Dam on the Sacramento River and Friant Dam on the San Joaquin River to catch and store the floodwaters; Tracy Pumping Plant and Delta-Mendota Canal to transfer Sacramento River water to the San Joaquin Valley; powerplants at Shasta and at Keswick Dam below Shasta, with powerlines to bring the power generated to the Tracy pumps and to integrate that power into other electric systems; the Contra Costa Canal, the Friant-Kern Canal, and the Madera Canal to deliver the water throughout the Central Valley; the Delta Cross Channel to shorten the path of Sacramento River water across the Delta to the Tracy and Contra Costa Pumping Plants.

To help meet the expanding needs in the Central Valley, Congress authorized the American River Division, including Folsom Dam and Powerplant, Nimbus Dam and Powerplant, and the Sly Park Unit, in 1949; the Sacramento Canals Unit in 1950; the Trinity River Division, including Trinity Dam and Powerplant, Lewiston Dam, Whiskeytown Dam, Judge Frances Carr Powerhouse, and Spring Creek Powerplant, in 1955; the San Luis Unit in 1960; the Auburn-Folsom South Unit in 1965; and the San Felipe Division in 1967.

Initial features of the project were primarily built to protect the Central Valley from crippling water shortages and menacing floods. New project units are now being built to provide water and power to match the continued growth of the State, with additional units planned for the future.

Project facilities now in operation, under construction, or authorized, will bring irrigation water to 3,757,000 acres of land, much of which is already under cultivation. In 1969 project powerplants with a total capacity of 1,221,840 kilowatts had been completed and were producing water to help meet rapidly growing demands for farm, industrial, and domestic power demands.

Although developed primarily for irrigation, the multiple-purpose Central Valley Project also provides flood control, improves Sacramento River navigation, supplies domestic and industrial water, generates electric power, conserves fish and wildlife, creates opportunities for recreation, repels saline ocean waters from the Sacramento-San Joaquin River Delta, and enhances water quality. Shasta Dam began storing water in January 1944; by 1951 the project had become fully operational.

WATER SUPPLY

THE CENTRAL VALLEY BASIN includes two major watersheds—that of the Sacramento River on the north, and the San Joaquin River on the south—plus the Tulare Lake Basin. The combined watersheds extend nearly 500 miles in a northwest-southeast direction and average about 120 miles in width. The basin is surrounded by mountains except for a gap in its western edge, at the Carquinez Straits. The valley floor occupies about one-third of the basin, the other two-thirds are mountainous. The Cascade Range and Sierra Nevada on the north and

COW CREEK UNIT, located in Shasta County, was authorized as a part of the Trinity River Division in 1955. The unit features consist of Wintu Pumping Plant with a maximum capacity of 100 cfs., 92 cfs. through the main conveyance, and a pressure system with branching pressure distribution lines. Each year about 23,900 acre-feet of water are lifted 296 feet from the Sacramento River by the Wintu Pumping Plant into the 8-mile-long Bella Vista Conduit. This supplemental supply, in combination with local ground water, serves about 6,800 acres of irrigable land east of Redding.

SHASTA DIVISION

SHASTA DAM AND SHASTA LAKE on the Sacramento River have a drainage area of 6,600 square miles and store a maximum of 4,552,000 acre-feet of water. Floods are controlled and surplus winter runoff is stored. The dam is a curved concrete gravity type structure, with a height of 602 feet and a crest length of 3,460 feet.

SHASTA POWERPLANT is located just below Shasta Dam. Water from the dam is released through five 15-foot-diameter penstocks leading to the five main generating units and two station service units. The total capacity of these units is 422,310 kw.

KESWICK DAM AND POWERPLANT are located on the Sacramento River nine miles downstream from Shasta Dam. The dam creates an afterbay for Shasta Lake and Trinity River Division and smooths out the uneven water releases from the powerplants. The dam also has migratory fish trapping facilities operating in conjunction with the Coleman Fish Hatchery on Battle Creek 25 miles downstream. Keswick Dam is a concrete gravity type structure 159 feet high with a crest length of 1,046 feet. The powerplant has three generating units with a total capacity of 75,000 kw.

SACRAMENTO RIVER DIVISION

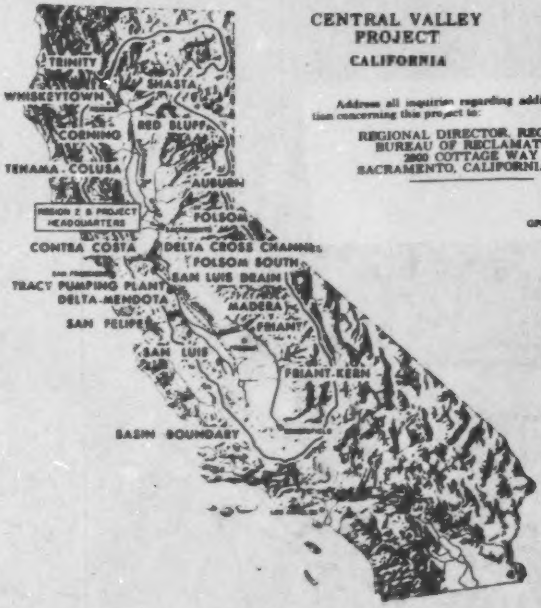
SACRAMENTO CANALS UNIT consists of the Red Bluff Diversion Dam, Corning Pumping Plant, and three main canals. The unit was authorized to supply irrigation water to over 200,000 acres in the Sacramento Valley, principally in Tehama, Glenn, Colusa, and Yolo Counties.

RED BLUFF DIVERSION DAM diverts water from the Sacramento River to the Corning Canal and the Tehama-Colusa service areas. The structure is concrete, 78 feet high, 752 feet long with earth wings. Fish ladders at each abutment permit king salmon and steelhead to pass around the dam in their migration to spawning areas.

CORNING CANAL has an initial capacity of 500 cfs. and is 21 miles long. It diverts from the Tehama-Colusa Canal, ½ mile downstream from Red Bluff Diversion Dam. The water is lifted 56 feet at Corning Pumping Plant and is delivered to lands in Tehama County with an elevation too high to be served from Tehama-Colusa Canal.

TEHAMA-COLUSA CANAL, under construction, will be 122 miles long. It will have an intake capacity of 2,530 cfs. and receive water by gravity from Red Bluff Diversion Dam to serve lands in Tehama, Glenn, Colusa, and northern Yolo Counties.

STONY CANAL, authorized but not under construction, will have an initial capacity of 225 cfs. It will extend south from the Black Butte Dam about 23 miles to serve an area west of the Orland Project.



CENTRAL VALLEY PROJECT
CALIFORNIA

Address all inquiries regarding additional information concerning this project to:

REGIONAL DIRECTOR, REGION 2
BUREAU OF RECLAMATION
2800 COTTAGE WAY
SACRAMENTO, CALIFORNIA 95825

GPO [illegible]

Senator STEVENSON. Let me first just make sure I have some figures straight.

Did you say that there were 2,300,000 acres in the Central Valley project?

Mr. PAFFORD. That would be capable of being served.

Senator STEVENSON. Right.

Mr. PAFFORD. Not all of it is being served.

Senator STEVENSON. And of the 2,300,000 acres, 1,400,000 were nonexcess acres?

Mr. PAFFORD. That is in land that is eligible to receive water other than through the route of recordable contracts. I mean they are definitely in holdings of 160 or 320 acres or less with no obligation to get that way, they are already there.

Senator STEVENSON. And the balance is excess and ineligible or excess and eligible by virtue of contracts?

Mr. PAFFORD. Right.

Senator STEVENSON. Did you say that 65,000 acres had been sold either voluntarily or involuntarily at the expiration of the contract?

Mr. PAFFORD. Right.

Senator STEVENSON. Now, one of the figures I missed was the figure on how many acres were under contract and in the process of being sold.

Mr. PAFFORD. First of all, of the total of 878,000 acres of land that would fall into some excess category, 246,000 acres of that got into the condition to receive water by being placed under recordable contracts. That left 697,000 acres of excess land that is not under recordable contracts and not receiving water. It could receive it if it wasn't for that legal barrier. Again I said 246,000 acres has been put under recordable contracts and has been receiving water, 65,000 acres of it has already been disposed of to holdings, so it is out of an excess category, it is no longer owned in an excess category; and of the remaining 181,000 acres, the time limit has not run out yet except on this three or four thousand acres, a very small amount. The time will run out progressively over the next 5 to 8 years in most cases.

Senator STEVENSON. Can you tell us anything about the nature of the buyers of the 65,000 acres sold?

Mr. PAFFORD. They vary in many cases, I would say. I would have to furnish this for the record if you want the exact figures, but just to give you the broad impression, about half of it is sold to people who acquire the farms, move onto the farm and operate it themselves. Others, in many cases, are purchased by people as an investment and contracted out either directly with their own people or with other people who have it operated for them. Some of it, for instance, is purchased by doctors and dentists out of the Bay area for an investment to the future, looking forward to wanting to get out of the urban area eventually, and meanwhile here's a chance, they see rising land values, a chance to invest their money, get somebody to run it for a while and they may move there and they may not.

Senator STEVENSON. That brings me to the next question. In addition to the acreage limitation don't you also have the residency requirement to enforce? What is your policy now and in view of the recent Federal District Court decision which you understand interprets the residency requirements to exclude corporate and absentee owners?

Mr. PAFFORD. The policy since back in the 1920's proceeded under the assumption that that residency requirement had been removed. This recent decision in the Federal district court indicates that it is required. Whether there will be further court action to clarify that or not I don't know. If that is it, it is going to cause some disturbance in some areas, but it will be enforced. Although that isn't as big a problem as some people may think it is, in many areas, particularly where irrigation has been established and we have been through these recordable contracts. For instance, in the Orland and Klamath projects, 98 or 99 percent of the people live right on the farms they operate. In most of the other projects, except a very few new areas, at least 80 percent are fully in conformance with the residency requirement, leaving 20 percent.

In the case of the Westlands district, I think about half would probably fall into the category and about half wouldn't.

Well, if higher courts sustain this, if it isn't changed by the Congress, we certainly will add that to the requirement. We have not known it was a requirement up until this court decision last month, and we don't know yet until it is clarified by a higher court whether it is, what the law says.

Senator TAFT. Is it a final order at this time?

Mr. BRODY. It is not a final order, it is an interlocutory portion of summary judgment or rather of a declaratory action, so it is not in the appeal board at this time.

Senator TAFT. All right.

Senator STEVENSON. I still don't understand your position. The residency requirement has been in the law over the years. You said something to the effect that at some point it had been concluded it was not in the law. At some point was it just interpreted as an administrative matter that the residency requirement in the law was meaningless and, if not, what was it interpreted to mean?

Mr. PAFFORD. Maybe Mr. Brody could answer this better than I can. My understanding was there was some interim legislation since 1902 that occurred to void this requirement.

Mr. BRODY. Senator, as I said earlier, the acreage limitation provision in the reclamation law is not one statute. Over the years it has been progressively amended and supplemented and supplanted by the Congress. This is largely because of changes in circumstances in fact. Originally the 1902 act was one which was aimed directly at homesteading lands, and then as an incident to that, when they saw that incident to the reclamation of public lands and creating homesteading they could irrigate, as the years went on, private lands from these projects as well as public lands, and gradually there was transformation until there was almost totally privately-owned lands. In the 1902 act there was a contemplation expressly provided for, that there was an individual who came to the Federal Government and applied for a water right. He contracted for a water right. And it was at that time that the residency requirement was included as a part of the original act. As time has gone on, because of the nature of the projects, because of the nature of the factual situations, the law has been changed without a repetition of the residency requirement so as to provide, instead of contracting with individuals on this, the individuals banded together and they formed districts and the larger entity contracted with the Federal Government and, in turn, collected the money to repay the Federal Government. In the evolution of these statutes and the construction of them has been construed by the Department of the Interior, as I understand it, over the years, that the more recent enactments did not require the residency requirement.

Apparently the judge thought otherwise in this litigation, and whether he will be upheld on appeal, if it is appealed, I don't know. I am inclined to disagree with that from a legal standpoint.

Senator STEVENSON. Do you disagree with the district judge?

Mr. BRODY. Federal district judge, yes.

I might add, Senator, one of the anomalies of that decision is that another judge, in the same court, in construing the same section of the law with reference to excess land provisions, had said a month or two earlier that that section did not apply to that patricular situation. On the other hand, the second judge has said for another purpose the section does apply which is something of an anomaly.

Senator STEVENSON. Mr. Pafford, you indicated that there is no acreage limitation with respect to California water. Is there also no residency requirement? If Senator Taft and I, coming from Ohio and Illinois, invest in some land out here, could we get the benefit of your California water if not the Federal water?

Mr. TOWNER. Yes, sir. I think you were addressing me rather than Mr. Pafford.

Senator STEVENSON. I beg your pardon, either one.

Mr. TOWNER. That is true. There is no acreage limitation. The acreage limitation comes about only when you take Federal water, that is the thing. When you take State water there is no acreage limitation but there is a difference in price. As I say, the State system is self-supporing. In the San Joaquin Valley you can't draw direct comparisons, but our firm water presently in Kern County is about $21 and acre-foot. The Bureau of Reclamation water to the north of there, but not too far away, is presently being sold for $3.50 an acre-foot.

Senator STEVENSON. There isn't any residency requirement?

Mr. TOWNER. For the $3.50 there is. On the Federal law and the State law there is no residency requirement but you have to pay the $21 an acre-foot.

Senator STEVENSON. Yes.

Mr. PAFFORD. Mr. Chairman, I would like to clear up one point on these price differences. The State water price reflects recent construction costs in the 1960's and 1970's. The Federal price cited went with construction 20 to 25 years earlier. The water we are selling to Westlands Water District, for instance, where construction has been in recent years, has a base price of $7.50 an acre-foot and some pluses that go on in connection with drainage. Thus we have a reflection not only of some of the help from the Federal program but the difference in the construction cost between 25 years ago and now, the difference between $3.50 and $7.50.

Mr. TOWNER. I would certainly go along with that and I might say this on behalf of the statement: The Federal Central Valley Project is a great project; we are very happy it is here; it was built in the depression days. As Mr. Pafford pointed out, the total capital cost today is $1.3 billion. This is a wonderful project. The State with its project has already spent almost $2 billion and as far as the total value, you couldn't compare them. I don't think the State project is worth as much as the Federal project. Dollarwise the Federal project was a great bargain.

Senator STEVENSON. There have been a number of charges and claims made during these hearings, and I want to try to give each of you an opportunity to respond to as many of them as I can recall.

One of the concerns expressed before this subcommittee and elsewhere has been about the environmental consequences of diverting water from rivers into these projects. Is there anything you would care to say about the threat of the diversion of rivers and all of the benefits of those rivers, from the water projects as those you have been discussing?

Mr. PAFFORD. I might make one general observation since our Shasta Reservoir, for instance, was one of the major rivers control structures and our Delta Mendota pumping plant is part of one of the major export systems. There are pluses and minuses with respect to environment on anything. For instance, to some degree we have reduced the total amount of water flowing through the Sacramento-San Joaquin Delta and out into San Francisco Bay. The history of water flow has been very high flows in the wintertime from winter rains and in the spring from the melting of snow, and extremely low flows in the summer and autumn. We certainly have reduced the high flows, that is when we get the water stored in the reservoirs.

On the other hand, since 1944 when Shasta Reservoir came into operation there never has been such critical salt under intrusion or low flows as they had in that area every 5 or 10 years in the past. We are convinced that the pluses are substantially higher than the minuses. To a considerable degree, through the earlier years of the program, to be perfectly frank, that was a matter of coincidence, rather than design. But now we are in an environmental conscious era, we are all in this era now. We in Reclamation are people; we believe in maintaining and enhancing our environment just as strongly as anybody else. We want to continue a good world and a better world to live in; we are paying particular attention to environmental impacts.

Mr. BRODY. I would supplement that, Senator, by saying this, that I think there is a tendency and with due apologies to you, I think it was somewhat implied in your question that either water projects are totally bad as far as an environmental standpoint is concerned or the environment is totally good from the other standpoint. I think that each project has to be measured on its own merits or lack of it and I think the environmental qualities have to be preserved and must be preserved, and I think each project must be taken on an individual basis. I think to generalize and attempt to say that water reservoir development must be favored over all environmental aspects would be wrong. By the same token, I believe it is wrong to prejudge and to say that all environmental aspects must be recommended to the exclusion of water reservoir development. I think this would be tremendously against the interest to all the people in the country.

Mr. PAFFORD. The very policy of the Federal Government, I think what most of the citizens agreed to has been well expressed by Russell Train, Chairman of the Environmental Quality Council. We have to get compatibility. It takes some things to live well and afford the things we need, and yet we need to maintain a decent environment in which to live.

Mr. TOWNER. Mr. Chairman, if I might just say a word. I would like to agree wholeheartedly with what they say, and I would like to emphasize one point, that each project must be looked at individually. The idea of general rules which will apply everywhere just won't work here. The environment encompasses everything. These projects do furnish certain values which are not wholly economical; they are other things. For example, our chief reservoir is the Oraville Reservoir which is on the Feather River. In 1950 there was a flood on the Feather River, downstream from where the dam now is, in the Marysville and Yuba City area, not in 1950 but 1955. Four hundred homes were destroyed, 36 people were drowned and a total loss of property somewhat over $15 million. Subsequently in 1966, 11 years later, our dam was in place for water conservation, power development, recreation and so forth, but just from the flood control point of view, another flood came along, flood waters which were much higher than they had been in 1955, and not one life was lost, not one house was destroyed, not one dollar's worth of damage was caused, and to me this is certainly environmental consideration as much as scenic values and so forth.

Senator TAFT. Are you engaging also in local augmentation in dry periods?

Mr. PAFFORD. It is inherent in the nature of our operations, because we store water in flood times, both the State project and the Federal Central Valley Project, we furnish it to water users, we have definite commitments in the Federal Central Valley Project and the State project to maintain certain minimum flows for fisheries value. To protect our own interest to pump the water from the other side of the delta, we have to run enough water out. Even in these periods that we have such low flow, we have to keep enough water going out so we aren't pumping salt water, as Congressman Waldie referred to as a possibility for the future. So low flow augmentation physically is a very definite thing. If you are thinking of it just under the legal implications of a section 3 of the Flood Control Act relative to stream flow augmentation for water quality, we aren't doing that directly in a strictly legal sense, but physically we are doing it.

Senator TAFT. Mr. Brody, in your testimony, did you mean to imply criticism or a reassessment of FHA practices, resources, authorization, and standards?

Mr. BRODY. I am not sufficiently familiar with the operation of that program at this point in time. What I was trying to get across, Senator, as a point was that I question whether and particularly on the basis of economy scale as it exists today, and in cost-price squeeze as far as the low return per acre for farming, that if you are going to put people on 160-acre farm units you had better get that cost to them down as low as you possibly can. I am suggesting, I am not certain whether the FHA would provide this kind of benefit, I was suggesting you may need to have an interest subsidy, for example, of some kind to these people. I would think that loans at low or no interest rate for both acquisition of propetry and initial years of operation would be in order. Now, whether the FHA presently, I am not sufficiently familiar with them at the present time.

Senator TAFT. You do not know whether the FHA has financed any of the people who have purchased some of these farms?

Mr. BRODY. No, I do not. But I——

Senator TAFT. Wouldn't you have reason to know if they had?

Mr. BRODY. I am sorry.

Senator TAFT. Would you not have reason to know if they had?

Mr. BRODY. No, I would not.

Senator TAFT. They would have to make an appraisal on the value of the property I would assume.

Mr. BRODY. They would have to make an appraisal, yes.

Senator TAFT. You wouldn't be aware of whether they made one?

Mr. BRODY. No, I would not. The district, as such, is not involved in the sale of these properties, at least not at this point in time. It is a sale between the buyer and the seller and the price is reviewed by the Federal Government.

Senator TAFT. Do you have any comments on those questions, Mr. Pafford?

Mr. PAFFORD. I know, for instance, in the disposal of some of the properties from DiGiorgio, one case I felt real badly about, there was a young farmer in his late twenties and his wife who wanted to acquire one of those vineyard properties, they thought they could make it. It was one of the units that was about a hundred acres, it wasn't 160. We tried to help them in getting fiancing. Let's see, the Land Bank was in it and other people, but I don't suppose they had assets of over $20,000 or so and it just wasn't enough that they could make it. I thought it was horrible. Here was a guy I knew who had practically a green thumb and we went to considerable effort trying to run down ways to help him so that they could get in on a solid operation. But the point came out, the interest rates they would have to pay, even if they could have borrowed the money that would have been involved, it would have been very doubtful if we would have been doing him any favor by putting him on the farm because they probably would have worked like the dickens for 3 or 4 years and then lost it. I think there is a real need for a program like that, if they really want to help out in this business.

Mr. BRODY. As I understand it, Senator, in the case of the DiGiorgio property, which illusions remain in the past, that on two occasions, and this is hearsay, that the people were forced to turn back the farms, they were foreclosed upon because they couldn't make a go of it because of the cost, or the interest or whatever it may be, or whether it was the size of the unit, I do not know, and they were, as I understand it, failures. I assume in your reference to FHA you are talking about the Farm Home Administration?

Senator TAFT. Yes.

Mr. Brody. As I recall, that is administering the Bankhead-Jones Farm Tenant Act. One of the reasons for the failure of that act in the early days, as I recall, was the fact that the limitation they placed on the amount they would loan to farmers was so small.

Senator Taft. I believe there also is a residency requirement.

Mr. Brody. Yes, that's correct. A man had to be operating the farm on the land himself, that was one of the original purposes of the Bankhead-Jones Farm Tenant Act—to convert the tenant into a resident farmer.

Senator Taft. Mr. Pafford, what do you think about Congressman Waldie's feeling that there is a conflict of interest essentially between the enforcement of these programs by the Bureau of Reclamation and the desire of the Bureau of Reclamation to continue expanding its efforts and the program which it administers?

Mr. Pafford. I presume in everything that involves people, whether they realize it or not, that there might be some slight association there. But as far as any conscious effort is concerned, there certainly is not that in any of my staff and myself. And I might say also in the Interior Department we have an independent conscience. Sometimes we argue with them quite a bit, that it is the office of the solicitors, the legal people who keep quite an eye on the excess land administration, and they are responsible to the Secretary of the Interior only. They have no responsibility to the Bureau of Reclamation except to keep us honest.

Senator Taft. So you do not feel that this program would be better located elsewhere?

Mr. Pafford. I doubt it very much.

Senator Taft. Wouldn't you be relieved to have the burden of handling this matter turned over to some other agency?

Mr. Pafford. Yes and no. If you have the responsibility of carrying out a program and have a real sense of doing something well, you take the things that involve a little bit more trouble and headache as well as the things that don't and follow through.

Relative to your first question, there might be a slight, and I would emphasize slight, lack of conflict of interest if you moved it to another agency. On the other hand, I suspect there would be a lack of understanding of what really is going on. We have physical operating contacts and know what the farmers are doing, what the irrigation districts are doing, how they are dealing in water. That we know from our people working with them from day to day. I doubt that any more effective administration or as effective administration would be obtained by an independent agency unless it would be set up along the lines of one of those proposals where they just buy all the land and resell it, and so on.

Mr. Brody. Senator, it hasn't been so very long ago that there was a great argument since the Corps of Engineers build comparable projects that all their responsibilities be placed in the Bureau of Reclamation because the Bureau of Reclamation was enforcing the acreage limitation and the Corps of Engineers was not and it was not applicable to Corps projects. This argument was used. I would suggest, sir, that you have to assume that every governmental agency is going to prosecute the programs that are given to it and if they don't then I think you have to get them out of there, but I don't think that the logic of taking this kind of thing away from the Bureau of Reclamation exists because the question of acreage limitation or the size of holdings and the operating of holdings is very much interrelated with the ability to pay the cost of the project, how you will operate the project and many other factors. And I question whether the separation of those two would be practical.

Mr. PAFFORD. Mr. Chairman, I would like to make one other observation relative to some of the testimony you have received and many allegations that have been made otherwise. It is alleged quite emphatically, on the one hand, that the Bureau of Reclamation is not enforcing the excess land laws, and on the other hand the same people and others say that the whole purpose of the California State water project was to avoid the excess land laws. What laws would there be to avoid if the Bureau of Reclamation were not enforcing them?

Senator TAFT. Thank you, Mr. Chairman.

Senator STEVENSON. It is also claimed that the appraisal policies of the Bureau of Reclamation are unfair or unrealistic. Some claim that the forced sales of excess lands are at prices which are too low, and, therefore, it is confiscation. Others claim that the appraisal values are too high, and that the sellers are therefore unfairly rewarded and the small farmer cannot buy at reasonable prices. What do you say about these arguments?

Mr. PAFFORD. As about everything, there are extreme views and there are middle-ground views. Let me tell you how this is actually handled. At the time of an excess of land, the owner will come to us for approval of the price at which he proposes to sell his land. We have a staff appraiser to appraise the value of the property as it is, and through comparison with adjacent properties and others find what the value would be if it were not receiving project water. In a good many cases the appraisal we come up with is lower than the landowner proposed price. If we get into a disagreement our contracts provide for an appraisal by a three-man board, an appraiser selected by us, an appraiser selected by the landowner, and an appraiser chosen by those two. I think by and large we are probably in about the right area, since we are accused about equally of having allowed too high a price or selling too low. Of course, as I am sure you know, when it comes to the appraisal of land value, it is not a precise science that you can put in a computer and it spits it out: it depends on the judgment of people. We will not approve a sale that in the judgment of our apppraiser doesn't fulfill the requirements I mentioned.

Mr. BRODY. Senator, may I give you some more specific information on the last question? In the fifteen sales that I recounted to you earlier, 10 of them were conducted by these outside appraisers, all members of the American Institute of Appraisers, and three expert appraisers, men who were engaged in the appraisal business, were appointed to do this appraising. In other instances there are people on the Bureau staff which have done it, but in 10 of the 15 or 16 it was this kind of an appraisal.

Senator STEVENSON. I have one final philosophical question I would address to all of you gentlemen.

We have Federal set-aside programs designed to encourage farmers to take their land out of production. We also have land reclamation policies designed to help them put their land into production. Can you reconcile for me what appears to be a conflict in public policy?

Mr. BRODY. Perhaps I have been commenting on too many of these questions but I would not hesitate to give you my views on it. Water resource development does not come about, Senator, overnight. The project on which I am working was initiated 30 years ago and it is not yet completed. In 1933 the State of California was contemplating a water bond referendum with reference to water resource development, and one of the large arguments that was raised against it was the fact that you should not be importing water to areas to use for the production of crops. Now this was in 1933.

If our production had remained constant in the intervening years, the war years and the other years, where would we be today with respect to production if we had not brought in this additional agriculture.

Second, the fact that there are surpluses in the crops today—my point is, in fact, there are surpluses today but this does not mean there is going to be a surplus a few years from now. As a matter of fact, according to statistics that I have seen, if all the food that is produced in the world today were distributed equally to all the people in the world we would all be hungry, so I don't think our problem is one of food production or agriculture production so much as it is a matter of food distribution.

Senator STEVENSON. Are you suggesting that there will be a major grape shortage in 5 years?

Mr. BRODY. No; I am not. I am not suggesting that there will be a shortage in any crop in 5 years. I am saying that over a period of time these things do occur and I think there are adjustments that have to be made in our production in terms of shortages in some instances and surpluses in others, but I don't think you can maintain a perfect balance at any time.

Mr. PAFFORD. I might add that our program here, like the reclamation program in many places, has enabled a much greater diversity in farming in the production of many things that are still in quite short supply. And the overlap interrelationship with programs involved with large surpluses, and programs for taking land out of production or curtailing production; the overlap is quite small. I think for the reclamation program, as a whole, about 2 percent of the ASC payments by the Department of Agriculture in 1970 for surplus and supported crops were reported to have been paid to farmers who received reclamation project water. The big advantage with our irrigation is it allows quite an opportunity to adjust supply to follow the law of supply and demand, because the farmer has much greater latitude with what he can grow.

Senator STEVENSON. Gentlemen, I thank you. We are trying in these hearings to hear the views from all sides on every issue. I am therefore especially grateful to you for appearing here today.

If we have had any disappointment in these hearings, it is because we haven't in all cases, and on all questions, been able to get the views of all parties. It is certainly through no lack of our effort.

I am disappointed that so far many of the representatives of agribusiness, so-called, have not seen fit to appear in these hearings in California, or at our Washington hearings.

Your testimony has been very helpful and I am grateful. Thank you.

Mr. BRODY. I wonder if I may make one concluding statement. I know you are pressed for time.

Senator as I viewed the information as reported in the press, at least, that's been supplied your committee, I have become more disturbed than I ever have in the past over it because it is a repetition of things that have been proven false in the past. On the other hand, to come in and respond to them or to attempt to offer what you consider to be constructive suggestions, you become the tool of the large landowner which is not the fact. As a matter of fact, as I view the comments that are made, it reminds me of a statement used to describe one man at a particular point of time who said he was very astute and could find a difficulty for any solution. I think this is what has been done here.

Now, if we would, I have a feeling that in these objectors who have been appearing before your committee in the past, at least as far as the excess land provisions are concerned, are using the small farmer, are using the farm labor in this particular instance, why I do not know. But I do know this, that if they were sincerely interested, here is a vehicle, and there is machinery they can work with. I have not heard one of them come up with a constructive program as to how they can distribute these lands to the small farmer, to the farm tenant.

Senator STEVENSON. That is partly our job and one of the reasons we are holding these hearings. We want to develop some fair policies and we are not simply hearing the opponents of irrigation projects. Yesterday, for example, was spent mostly in hearing directly from the farmers, large and small.

Now, with that we are going to have to keep moving because we really are running very far behind our time schedule.

Additionally, we just learned that Senator Wayne Morse of Oregon, formerly a member of the Labor and Public Welfare Committee, will not be able to be here with us this morning. He was invited to testify in view of his long interest in the problems that our subcommittee has been considering, and we do have a copy of his statement, which I order printed at this point in the record.

I wish to thank Mr. Gary J. Near, who had been invited to testify on the water issue, and prepared a statement, but has consented to presenting his views in writing, rather than orally, in order that we might move on.

I order that Mr. Near's testimony be printed after Senator Morse's statement in the record.

(The information referred to follows:)

STATEMENT OF HON. WAYNE MORSE OF THE STATE OF OREGON

Mr. Chairman. I am delighted to have this opportunity to add my voice to the growing numbers of citizens concerned about the new forces at work in rural America.

We hear more and more about giant corporations and conglomerates in agriculture, but I would venture to say that few of us are aware of just how dramatically these entities are reshaping rural society. For example, Tenneco controls more than 1 million acres of prime farmland in California; three corporations dominate the Nation's lettuce production; and twenty large corporations now control U. S. poultry production. Just recently, a Time Magazine reported that Boeing Aircraft purchased 100,000 acres in Oregon, including some to be planted in potatoes. This can only depress further the prices in one industry that already is in trouble.

The invasion of these giant corporate entities have had a good deal to do with the fact that in a period of just 20 years, the total U. S. farm population has been reduced by 60%, and the number of farms has been cut in half, while the average acreage per farm is on the increase.

For example, the farm population in 1950 amounted to 25 million. By 1969, that number had dropped to 10 million. Expressed as a percentage of the total population, in 1950 the farm population accounted for 15% of the total and by 1969 it was less than 5%.

The number of commercial farms in 1950 was 5.6 million. In 1969, there were fewer than 2.9 million farms, although during that same period the average acres per farm increased from 200 to 380.

Taking into account a change in definition of a "commercial farm" from 1950 to 1964, there was a marked decrease in their numbers in the State of Oregon. In 1950 there were 34,470 commercial farms. By 1969 the figures had dropped to 17,003 farms.

Shrangely, Mr. Chairman, this dramatic shift in the basic character of rural America has attracted little attention. While we have dutifully counted the people moving from farms to cities, we have exhibited little curiosity about the causes of this migration. We have, as a result, perpetuated the myth of the inevitability of bigness in agriculture--a bigness that exists attthe expense of human and social values and institutions.

The family farm has always been more than an economic entity. It has, until recently, been a basic component of our social and political systems. Since Thomas Jefferson first idealized the family farm in his vision of a nation of small, independent land holders, the family farm has symbolized the

American dream. An agriculture based on the family farm has afforded countless opportunities for the realization of that dream.

Just a few years ago, our rural landscape was dotted with hundreds of thousands of family farms generously interspersed with economically viable rural towns and thriving rural communities. Today both the family farms and the rural communities which they supported are fast disappearing. In their place we now find "farms" that are operated on a vast scale by phantom machines, directed by a new breed of "farmers" from the corporate board rooms of Houston, Los Angeles and New York. Modern American agriculture is no longer characterized by Farmer Jones and Farmer Smith. Modern "farmers" have the unlikely names of Tenneco, United Brands, Purex, Southern Pacific, Standard Oil and Boeing.

This corporate domination is not inevitable, but it has been encouraged by the federal government through generous crop subsidies; tax benefits--including tax loss farming advantages available only to the giants; research subsidies through land grant colleges; and other economic incentives. In the Western States, it has been encouraged by the government's failure to enforce the acreage limitation provision of

Federal Reclamation Law, a limitation I have long supported. On the West Coast, completion of new water projects, which cost the taxpayer millions of dollars, will provide cheap water to a few rich farmers and corporations and will bring thousands of new acres into production, all to the economic detriment of the independent family farmer.

Yet another subsidy is the assurance of cheap labor. No other industry except agriculture has ever been the beneficiary of a ready supply of cheap labor, an indirect subsidy resulting from the exclusion, or at best, only partial inclusion, of farmworkers from practically every major social and worker benefit program ever enacted into law. And this cheap labor policy works especially to the detriment of the small farmer and his family who invest countless hours of their own labor to earn their own living.

I submit, Mr. Chairman, that the family farmer is not inefficient. In fact, many studies illustrate that the small farmer is in many cases the more efficient farmer. He simply cannot compete successfully with the economic power of giant corporations and conglomerates that can rely on their non-farm income to sustain any losses in their farming divisions and which are, in the final analysis, supported by the federal government.

I commend your Subcommittee for beginning this essential investigation. I hope that your hearings will document the real tragedy of our dying American dream: the suffocation of the family farm by forces beyond its control and the loss of oppoftunity for a life of dignity and worth in rural America. We must decide what we want for rural America--a food production, processing and distributing factory, or an agriculture that is based on human values.

I vote for the latter and hope that the Congress will not delay the implementation of a rural policy that can revitalize our rural countryside.

EXCERPTS FROM

THE COMMUNITY LAND TRUST
A Guide to a New Model for Land Tenure in America

The story of land is older than the story of man. Land came first; no man created it. Every society, large or small, must devise ways in which its members will share this gift. This is *allocation.*[5] Members of society must also determine under what conditions the land will be passed on to the next generation. This is *continuity.* And they must decide if, when, and how it may be traded with others. This is *exchange.*

The authors have developed this study of the idea of the community land trust because they believe that in our society, if not in much of the world, unsatisfactory institutional answers have been evolved to the questions of allocation, continuity, and exchange. However, there is no claim intended that this one mechanism is a panacea. It is only one idea among many which are needed to restructure our social and economic system in order to produce a world order, not without conflict but without war; not without sorrow but without hopelessness; not without inequality but without inequity.

We are fortunate that today there is heightened awareness of the need to protect and preserve the natural resources we have inherited from the generations that have come before us. But the struggle to provide *continuity* for generations into the future – to re-establish the balance between ourselves and nature – has hardly begun.

Historical Precedents

The ideas behind the community land trust as formulated in this guide and practiced by experimental community groups today have historic roots largely ignored in conventional histories, which is why we can say the goal is to "restore" the land trust concept rather than initiate it. For example:

American Indian tradition holds that the land belongs to God. Individual ownership and personal possession of land and resources were unknown.

> The Indian had a respect bordering on awe for everything he could see, hear, or touch: the earth was the mother of life, and each animal, each tree, and each living thing was locked into an interrelated web of spiritual existence of which the individual was a small part. In trying to attune his everyday life to these concepts, the Indian inevitably established a deep feeling of oneness with the world of nature. Implicit in this feeling was what we now call a stewardship approach to the use of land. . . .
> It was incomprehensible to the Indian that one person should have exclusive possession of parts of the earth. The warrior chief, Tecumseh, reacted with astonishment to the demands of white buyers: 'Sell the country?. . . Why not sell the air, the clouds, the great sea?'. . .[6]

In New England today, what were once significant areas of community land survive in the form of park areas near the center of a town and in town-owned forests. Originally the town common was made up of large tracts open to all members of the community

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[5] Problems of land allocation fall into two broad categories: the allocation of land among individuals, and the allocation of land among its multiple possible uses. Inequitable allocation of the first type is a major source of injustice among men; inequitable allocation of the second type produces injustice not only among men, but also between all men and nature.

[6] Stewart L. Udall (Secretary of the Interior during the Kennedy and Johnson administrations), "The Indians: First Americans, First Ecologists," *The American Way*, May 1971.

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for animal grazing and sometimes farming. Though inheritors of the Roman tradition of private land tenure, the early European settlers in America were prompted by the severity of their new environment to modify landholding in favor of community ownership.

In Mexico, the ejido *system of land use – village control over communal lands – was traditional. Villagers had use-rights to commonly owned plots of land in Indian communities. But land was increasingly appropriated by the wealthy and the Church, from the Spanish Conquest through 1910. After the Mexican Revolution, the new government made land reform a major goal. Many lands were returned to Indian villages from which they had been taken. In other cases, villages of landless peasants without traditional title received land. These villagers were given use-rights, without individual title and without the right to sell the land. This progressive land reform effort was only partially carried out, however, and exploitive landholding patterns are still evident.*

In Africa, common tradition often held land to be the property of no single person or tribe. It was to be shared by all. There were territorial boundaries fixed by custom or agreement; however, within these boundaries land was communally used. Today, Julius K. Nyerere, prime minister of Tanzania, has initiated the program of Ujamaa Vijijini *("familyhood in villages") which represents a return to the traditional landholding concept.*

In ancient China, during 24 centuries (from 2697 B.C. to 249 B.C.), "land was held not as private but rather as common property. . . . Lands were held by the government [emperor] as a trustee for the general public. . . . The policy of the Chinese government toward land . . . has always been to distribute it as widely as possible among the great mass of people. . . ."[7] It was not until the beginning of the Ch'in Dynasty in 221 B.C. that private ownership of land was introduced.

Evolution and Effect of Land Tenure Practices

Early peoples throughout the world were alike in their common vision of land as a resource to be held in trust. Today, most of these examples have long since vanished.[8] In the West, the Roman (allodial) land tenure system (prototype of the prevailing system of private ownership of land) has become dominant. Similar patterns prevail elsewhere in the non-socialist countries.

A century ago, America was still largely a land of independent small farmers and homesteaders. Most lands which were not in governmental hands were individually owned by those who cultivated them. For decades the federal government had given away land at almost no cost to anyone who would settle upon it and use it. As long as there appeared to be no limit to available land, America, full of optimism and self-confidence, gained its worldwide renown as the land of opportunity and endless wealth.

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[7] Han Liang Huang, "The Land Tax in China," *Studies in History, Economics, and Public Law,* Vol. LXXX, No. 3, ed., Columbia University, Faculty of Political Science (New York: Longmans, Green & Co., 1918).

[8] "Historically, it was the dispute over the use and ownership of land that caused the white-skinned immigrants to ignore and cast aside the lessons of Indian ecology. The Western European immigrants were land-hungry. They came from feudal societies where the governing classes owned land outright, fenced it off, and gloried in its exclusive possession. We perceive now that feudal land laws were a serious flaw of Western culture." Udall, "The Indians: First Americans, First Ecologists."

Private ownership of land seemed justified as a practical response to actual historic forces. Fast accumulation of capital through private entrepreneurial exploitation of land and natural resources was an important factor in the quick industrialization of the United States. But whatever the original logic, current economic, political, and environmental problems indicate the Roman system may have outlived its usefulness. As the noted planner, Edgardo Contini, comments:

> The heritage of this commitment [to the sanctity of private ownership of land] stems from one of the founding principles of the United States. . . . Ownership of the land that one worked was an essential component of the social revolution upon which our nation was founded. But, as the United States changed from an agricultural to an industrial economy, from a rural to an urban nation, the social significance of private land ownership became, to a large degree, a cover for extracting speculative profits from the pressures of urbanization.[9]

World conditions have obviously changed, and America not the least among them. The system of private ownership of land that led to high productivity and personal independence one hundred years ago has become a major source of economic and social inequity.[10] Private ownership of land is increasingly translated into corporate ownership, and, despite the increase in private homeownership, ever more land is being held in relatively fewer hands.[11] Middle-income families, as they attempt to purchase their homes, are forced to pay inflated prices, and the poor, as always, are almost totally excluded.

Today's poverty, unemployment, and urban misery are in no small part due to the thoughtless malappropriation of rural land which has taken place at an ever-increasing pace over the last century and a half. Profligate and ruinous landbuying and settlement practices have resulted in a monopoly-owned development pattern in the South and West that has not been altered in the last century — except to replace family ownership of many large tracts of land by corporate ownership.[12]

The social effects of maldistributed land have been most manifest in the impoverishment of tenant farmers and sharecroppers in the South. Furthermore, as agriculture becomes more mechanized and comes to be dominated by those who have capital (the wealthiest family farmers and the giant corporations), those families that formerly owned and managed their own farms have largely been driven off. Many have migrated to the cities.[13] Some small farmers continue to survive in poverty where they and their ancestors were raised. Some few are employed by the large conglomerate corporations or the relatively few millionaire farmers who have succeeded in gaining control of vast expanses of the best cultivable land.

Urban problems, too, can be traced to a century of thoughtless distribution of a fast-dwindling resource.

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[9] Edgardo Contini, "The American City — A Forecast," *The Futurist* 4:1, February 1972.

[10] In the American South, where the plantation system and slavery reigned for 300 years, there never did exist the "freedom and justice for all" upon which the highest ideals of America were based. In fact, the Southern plantation system was in many ways a forerunner of the modern corporate factory farm.

[11] We are not aware of any comprehensive census of land ownership in the United States. It is in most localities extremely difficult to find out precisely who owns what and how much. On a national scale it is even more difficult. With our cultural mania for statistics, perhaps this phenomenon is to be viewed simply as an oversight.

[12] Unchecked — and even encouraged — by Congress, the issuance over the years of vast tracts of land to speculators drove up land prices, discouraged settlement by the poor, and resulted in monopoly ownership of America's farmlands. The Homestead Act of 1862, a provident measure adopted by Congress, attempted, albeit feebly, to encourage settlement by poorer families. Under its provisions a family could acquire up to 160 acres if it occupied and improved the land for five years. But by the time it was enacted, a substantial portion of the best land in America was already taken. Even the Federal Reclamation Act of 1902 did nothing to break up massive landholdings even in providing a 160-acre limitation (and residency requirement) for those lands receiving federal water. Land monopoly stayed entrenched in the West through continuing violations. See Peter Barnes, "The Great American Land Grab," *New Republic*, June 5, 1971.

[13] The policies of the U.S. Department of Agriculture which favor the "successful" farmer to the relative detriment of the small farmer have accelerated this migration. Over the past decade, an average of 1,670 small farms per *week* have been lost, according to the *Wall Street Journal*, 11 May 1972.

> What had not been foreseen was the impact that land monopoly would eventually have on American cities. If the Southern plantations and Mexican land grants had been distributed in limited-size parcels to actual settlers as generously as it was handed out in prodigious chunks to speculators, if the reclamation law had been vigorously enforced, it is doubtful that the cities would be as overcrowded and beset as they are today.[14]

Within the densely populated urban areas the issue of land allocation is different yet is resolved no more rationally than in the countryside. Speculation for private profit and local politics often determine how land will be used. Near the core of each of our great cities lie vast acreages of dilapidated slum houses inhabited by the poor, the rejected, and the neglected members of our urban communities. While the owners of these slum properties live in comfort elsewhere, their tenants are permitted to camp within these run-down dwellings only until the day the "progress" prophesied by urban renewal approaches fulfillment, and then they are driven elsewhere.

Is There a Way Out?

The problems that have arisen as a result of this system of land tenure are more than amply documented by today's media and need not be further elaborated here. What is strange is that although the problems are widely recognized and discussed, very few people question the system of private land tenure that lies at their roots.

In the United States, "land reform" is seldom mentioned, yet is no less needed than in the many less developed nations where it has been an evolutionary – or revolutionary – demand for ages. In most cases, land reform consists of a relatively superficial attempt to redistribute land more widely by breaking up certain very large landholdings, with small parcels granted small farmers, usually on a private ownership basis.[15]

Private landownership – and its concomitant problems – is accepted as inevitable by most Americans, perhaps because it has stood for so long as a pillar of our ideology, as Contini has noted. Another reason is that there are so few examples of alternatives in the United States (and, for that matter, in the world); those that do exist are not widely known, nor is their significance recognized. Only recently has there been much desire to experiment with alternatives.

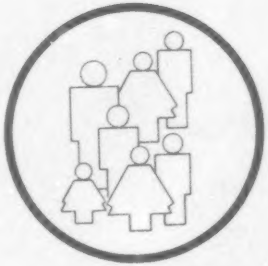
We feel that barriers to such experimentation are more psychological than economic or political. Even though government programs and private investment institutions favor private development, there are at this point no tangible legal or economic barriers to the trusteeship approach to land tenure. The community land trust represents a means by which a legitimate alternative institutional expression of landownership may be found, thereby contributing to the much-needed social and economic reconstruction of America.

[14] Peter Barnes, "The Great American Land Grab."

[15] Such redistribution is, however, more often discussed than implemented. Even where redistribution *is* implemented on a private ownership basis, the beneficial effect is short-lived. Economic pressures, and lack of credit and know-how continue to exert their pressure on the small farmer, often leading him eventually to mortgage or sell his land outright, with land ownership often returning to something like the original pattern.

Part One: The Idea

Chapter One: The Community Land Trust



Defining the Community Land Trust
The community land trust constitutes a social mechanism which has as its purpose the resolution of the fundamental questions of allocation, continuity, and exchange.

The community land trust is a legal entity, a quasi-public body, chartered to hold land in stewardship for all mankind present and future while protecting the legitimate use-rights of its residents.

The community land trust is *not* primarily concerned with *common ownership.* Rather, its concern is for *ownership for the common good,* which may or may not be combined with common ownership.

Precisely how the community land trust attempts to resolve the questions of allocation, continuity, and exchange is detailed throughout the guide. In this chapter, we will introduce only the most salient assumptions, definitions, and principles.

The Concept of Trust. The choice of the word "trust" is based upon our desire as authors to emphasize the notion of "trusteeship" or "stewardship." If land is limited, then its use in the face of steadily expanding human demands upon it must be regulated for the long-range welfare of all people.[16]

Our choice of the word "trust"[17] can be explained further by our desire to emphasize Ralph Borsodi's idea of "trusterty." Borsodi suggested that possessions should be classified as either "property" or "trusterty." Property is created by man through his labor. Trusterty includes land, the atmosphere, rivers, lakes, seas, natural forests, and mineral resources of the earth. Since these do not come into existence as a result of human labor, they cannot be morally owned; they can only be held in trust.[18]

Originally land was "free"; it had no price. But with time, as desirable land has become increasingly scarce, its price has increased. During the past century this increase has progressed at a rate that far exceeds the rise in the cost of living. (It may be reasoned that whenever men derive economic value from that which they have not produced, this becomes at least one factor behind inflation – and some economists go so far as to say it is the only factor.) *When land is exchanged as "property" (rather than as "trusterty"), the impact of such exchanges upon the total economy are in the long run dramatic, if not catastrophic.*

Land is held by the community land trust in perpetuity – probably never to be sold. Thus, the problems of exchange are virtually eliminated. The trust leases the land to the users with the expectation of preserving or enhancing its long-range resource value. The leases are long-term, restricted to the actual users of the land; absentee control and subleasing are specifically proscribed. The residents have secure use-rights to the land and are free to control and build their own community through cooperative organizations or individual homesteads.

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[16] A variety of modern thinkers have cried out for the restoration of the notion of trust in connection with land. The best known are such disparate souls as Marx and Gandhi. In the West, Henry George's *Progress and Poverty* (1880) became an instant worldwide bestseller; the reading public seemed hungry for new approaches to the "land problem." During the Depression, it was the social philosopher Ralph Borsodi, perhaps more than anyone else, who discovered a way to translate George's ideas (of land as a source of wealth) into the field of applied economics.

[17] Hopefully, the community land trust will not be confused with an ordinary real estate trust which usually has individual, private beneficiaries and has as its purpose the protection of private profits.

[18] The concept of "trusterty" includes more than natural resources; it includes also abstractions such as legal grants. It is more complex than it might first appear to be. For a full discussion of trusterty, see Ralph Borsodi, *Seventeen Problems of Man and Society* (Anand, India: Charotar Book Stall, 1968), especially pp. 333-372. The book is available from School of Living, Freeland, Md.

Both in concept and in practical operation, the community land trust distinguishes between land with its natural resources and the human improvements thereon, often called property externalities. The land is held in trust, not the improvements.[19] Homes, stores, and industrial enterprises created by the residents will be owned by them, either cooperatively or individually.

Community. We use the word "community" in the term community land trust fully conscious of the fact that it is an overused, imprecise, and confusing word. Throughout this guide we will try to be relatively specific in our usage. We will refer to the people actually living on the land trust as the *"resident community."* The larger *"community"* includes the resident community as well as those who intend to be residents, support the trust, or who otherwise identify with the trust.[20] And although we have tried not to use it in this sense, we recognize the broader connotations of the concept of the community land trust: "community" in the largest sense, the community of all mankind, an idea that is essential to the concept of trusterty.

Applications of the Community Land Trust Concept

The community land trust addresses the contradiction between the private ownership of land and its inherently limited nature in the face of multiplying population pressures. Therefore, in theory and, we hope, increasingly in practice, it can be applied wherever private landownership exists. However, from the standpoint of practicality, we should outline certain specific areas or ways in which the community land trust might first be applied.

Rural New Towns.[21] In the United States as well as in most other Western and industrialized countries, maldistribution of population is one of the more pressing problems. In the United States, 70 percent of the population lives on 2 percent of the total land area.[22] The all-too-familiar urban problems are directly linked to this population pattern; many are, in fact, rooted in the "lack of access to productive land ownership by groups who today constitute the urban poor."[23] One approach to redistributing the population is the new, planned town; among those discussed have been towns with populations of up to a half million.[24]

The major obstacles to any significant beginning in this direction are, first, the multiple difficulties of acquiring large tracts of land (we are talking about thousands of acres) at reasonable cost, and, second, speculation in land which siphons off the value that accrues from planning and community development. It is these problems that make it impossible to provide decent housing in a healthy environment for the millions of low-income families now deprived of this right. Neither of two widely publicized new towns – Reston, Virginia and Columbia, Maryland – despite good intentions, have been able to provide significant housing for low-income people, including those who spend their days working in or building the communities.

[19] The leasing of land only, without structures, may seem to be a novel concept, but this is neither a new nor an uncommon idea. It is used in such dissimilar places as Canberra, Australia; Irvine, California; and part of Baltimore, Maryland. It is a standard way of handling commercial urban land; the corporate owners of many a skyscraper do not own, but only lease, the land upon which it stands.

[20] See Chart 1, Chapter Four, for a diagram that may clarify this distinction.

[21] The concept of the rural new town has its American precedents among the covenanted communities of the earliest settlers of the Massachusetts Bay Colony, as well as among several experiments during the New Deal period. Its structure is largely based upon the *moshav* in Israel. See Shimon Gottschalk and Robert Swann, "Planning a Rural New Town in Southwest Georgia," *Arete* 2:1, Journal of the Graduate School of Social Work, University of South Carolina, Fall 1970. For further reading on the history of the covenanted community in America, see Page Smith, *As a City Upon a Hill* (New York: Knopf, 1966). For an example of a New Deal precedent, see Edward Banfield, *Government Project* (Glencoe, Ill.: Free Press, 1951).

[22] *Current Population Reports*, U.S. Bureau of the Census, Series P-60, No. 77 (Washington, D.C.: Government Printing Office, 1971).

[23] Peter Barnes, "The Great American Land Grab."

[24] The idea behind the rural new town and how it can address the maldistribution of population in the United States is described in Gottschalk, "Rural New Towns: Toward a National Policy" (Cambridge, Mass.: Center for Community Economic Development, 1971). For a report on ways of dealing with social and political issues inherent in planning and developing new towns, see *New Towns: Laboratories for Democracy*, Report of the Twentieth Century Fund Task Force on Governance of New Towns, background paper by Royce Hanson (New York: Twentieth Century Fund, 41 East 70 St., 1971). For additional studies on differing aspects of new town development, see Peter

The land trust is considered a tool that might help solve these and other problems. As a public or quasi-public body, it could qualify for development of certain public lands, including unused or underused military bases. These are in many cases ideally suited for the development of new towns. Secondly, as a "tax enclave" (see Chapter Two), the town can distribute the tax load in such a way as to let land users pay an equitable share for the advantages of site location and availability of services, basing the tax burden on ability to pay.

The concept of the land trust is of central importance to the rural new town:

> Whereas residents will own their homes and the improvements which they make on their individual plots, ownership of the land will rest with the Trust. . . . The effects of the Land Trust will be to 'decommoditize' the land, and thus safeguard the newly independent farmer's right to his property, regardless of the fluctuations of the harvest or the market. The perpetual Trust will guarantee that land cannot be repossessed by creditors in times of hardship. It will eliminate the possibility of land speculation, and absentee landlordism will be permanently avoided.[25]

New Communities, Inc. of Lee County, Georgia, modeled as a rural new town, is the best example of the land trust concept as developed in this guide. (See Chapter Three for a detailed case study of this model.) The rural new town, however, is not considered the only – or even the major – possible application of the community land trust principle. The concept can equally well apply to established communities and the urban setting.

Urban Land Trust. The land lease element of the community land trust concept has for years been a common approach to commercial development of urban land in the United States and elsewhere. Considering this tradition, it might not be unreasonable to hope for the establishment of significant urban community land trusts in this country. Any number of community owned or communally owned institutions exist in urban areas today, although these generally consist essentially of buildings and other structures, with the land itself considered secondary in importance. (In Israel, the Jewish National Fund has recently acquired urban land and is holding it according to the community land trust concept, which has had a healthy impact on urban land values and costs to users of the land.)

Numerous opportunities may exist in both the urban and small town setting for community groups or the town itself to assume a trusteeship role with regard to land and property in private use. It has been proposed, for example, that instead of selling land for taxes, municipalities consider assuming title to the land, as has been done in Rockville, Maryland, and St. George, Vermont, thereby reserving it for the broader welfare.[26] Thus, in certain new cities – or when land is developed by existing cities – the government may act as the developer, keeping title to all the land, performing the planning, and

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Bass and Edward Kirshner, "New Town Development: Costs, Revenues, and Alternate Sponsorship Arrangements," Master of City Planning Thesis, Department of City and Regional Planning, University of California, Berkeley, 1971. [summary article only, available from Center for Community Economic Development]; "New City Prospectus" (Cambridge, Mass.: The Cambridge Institute, 1970). For a study of community-owned new towns and their financing as steps beyond community development corporations, and other forms of partial community ownership, see Edward Kirshner and James Morey, "Community Ownership and New Town Financing" (Cambridge, Mass.: Center for Community Economic Development, forthcoming 1972).

[25] Gottschalk and Swann, "Planning a Rural New Town."

[26] These two experiments in the area of public ownership of land deserve mention. Rockville, Maryland, a Washington, D.C. suburb, borrowing the technique of private investors, in 1970 purchased a 152-acre farm of which about 40 acres will be given over to industrial development. The city plans to hold the industrial land instead of selling it off, and create an industrial authority to develop and lease the space. Not only would the city continue to profit from the ongoing investment of public resources, but ownership will give the city far better control over the use of its land than it would have through its zoning powers, if the land were sold to a private interest.

Public ownership offers a handhold. By controlling use of the new industrial site the city is in a position to choose the kinds of industries it wants and needs. And being in that position multiplies its opportunities to have a say in the composition of its tax base, social mix of its population, and the future of its environment. (*City*, January-February 1971, pp. 85-86.)

A new approach to land use control and development is also being exercised in St. George, Vermont, where the town took control of certain land resources within its boundaries. Citizens authorized the town selectmen to purchase leasing parcels to private organizations for development in what is deemed the public interest. This "public utility" concept of urban land is discussed by Edgardo Contini in an article that describes the precedent for non-ownership of urban land: ". . .land dedicated to urban development [may be viewed] as a public utility, owned and administered by the community itself."27

A recent Congressional study on property taxes and their effect on land use explores government ownership of land for orderly planning through the use of "land banks":

> Government ownership of land in and around urban areas is a policy pursued in several European countries to aid in directing land development toward the desired goals, i.e., planned growth, housing construction, appropriate open space. Some land banks are common in the Scandinavian countries, and also to some extent in India and Israel.
>
> One of the most extensive examples of this is in Stockholm, Sweden. In the early part of this century the city purchased a major part of the open land within its borders and in adjacent suburbs. The suburban land purchased became part of the city.
>
> This land may be developed by governmental, nonprofit, or private developers, but it is leased, not sold. The annual rental is set at 4 percent of assessed value, subject to indefinite extension but with renegotiated rentals.28

In such a land bank the government might perform the trusteeship function. In the United States there have been moves in this direction: in the 1930s, under the Federal Resettlement Administration, land trusts were tried but were unsuccessful, partly because of "top down" administration but also because of political pressure. The community land trust, however, is a nongovernmental institution, with the primary impetus evolving from the bottom up, and more directly from the people.

Political Dimensions

The concept of the community land trust has political implications for certain groups of disenfranchised Americans. There are a number of (largely unrealized) opportunities for land trusteeship within established communities or ethnic groups. Of particular note are the efforts of certain groups of Indians, Alaskan Eskimos, and Mexican-Americans to retrieve large tracts stolen from them by white settlers.

Return of these lands might be more politically feasible through the mechanism of a community land trust sponsored and controlled by the original and rightful holders of the land. The issue is political, and political action on the federal level is required. In many cases, large sections of this land have been taken over or deeded to non-native peoples and corporations. These groups could be offered long-term leases, which would provide a continuing source of income to the native or Mexican-American trustees.

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48 acres of prime, commercially developable land within the town limits, and then used the Vermont zoning statutes to zone the rest of the town as residential. The town thus became the sole owner of the only commercial property, assuring that any future development would be under the complete control of the town planning commission. (John McClaughry, "Town CDC," *Community Economics* [Cambridge, Mass.: Center for Community Economic Development, May 1972].)

[27] Edgardo Contini, "The American City."

[28] From *Property Taxation: Effects on Land Use and Local Governmental Revenues*, a background study prepared by the Congressional Research Service for the Subcommittee on Intergovernmental Relations of the Committee on Government Operations, U.S. Senate (Washington, D.C.: Government Printing Office, 24 February 1971), p. 53.

Such efforts to reclaim large tracts of land linked with a return to traditional tribal (communal) landholding hold forth the promise of significant experiments in the spirit of the community land trust.

Indian Tribal Lands. Among the several claims for restoration of Indian lands is that of the Pit River Indian Council, which is reclaiming title to 3 million acres of tribal lands in northeast California. This tribe was forcefully removed from its land in 1953 and most of the land is now held by the federal government and large corporations. In response to the Indian claim, the government in 1963 offered 47¢ per acre. The tribe rejected the offer, issuing a proclamation that stated in part:

> The Pit River Indian Tribe has voted unanimously to refuse the payment under the California Land Claims Case now being prepared for settlement. We believe that money cannot buy the Mother Earth. . . . We are the rightful and legal owners of the land. Therefore, we reclaim all the resourceful land that has traditionally been ours, with the exception of that 'owned' by private individuals.
>
> On this land we will set up our own economic and social structure, retaining the values that are commensurate with Indian life. We will encourage and help other Indian tribes and groups to establish similar structures across the country. . . .[29]

As of this writing, the tribe has not yet succeeded in reaching a satisfactory settlement on this claim, although they have expert legal counsel and are working toward a compromise agreement to obtain corporate support in a legislative effort to reclaim a portion of the traditional holding.

Mexican-American Claims. There is considerable effort today devoted to reclaiming traditional Mexican-American land that has been taken over by white Anglos or by the U.S. government in New Mexico, Arizona, and California. Perhaps the best publicized of these efforts is that led by Reies Lopez Tijerina working through the Alianza in New Mexico. The Alianza is claiming thousands of acres, especially in northern New Mexico. In one case, near Tierra Amarilla, an area that had been used traditionally by Mexican-Americans for communal hunting, fishing, and recreation has been appropriated by Anglos from Texas wh[illegible] staked out several thousand acres, fenced them off, claimed title (since no private title existed previously), and are charging a tariff for the privilege of entering to hunt or fish. So far no settlement has been made.

Alaskan Land Claims. The native peoples of Alaska – Indians, Aleuts, and Eskimos – have claimed a good portion of that state's 375 million acres as their traditional territory. Unlike the Mexican-American and Indian land claims, a settlement of sorts has been made by Congress – primarily because of the government's eagerness to exploit the North Slope oil fields.

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[29] Pit River Indian Council, *Resurgence*, November/December 1970.

The battle was not easy, even with justice and the oil discovery on the side of the native peoples. Working through the Alaska Federation of Natives (AFN), a major lobbying and legislative effort was mounted – at a cost of $600,000 – and on December 14, 1971, the House and Senate approved a bill that confirmed native title to 40 million acres and authorized almost $1 billion in compensation for the rest of the claimed territory.[30] About half the money will be paid by the state from future oil revenues, and the balance by the U.S. Treasury over an 11-year period. The land will be used primarily to support those villages still relying mainly on hunting and fishing for survival. The money will be administered by 12 native corporations and used to build housing and as seed money for local businesses.

This is no doubt the largest settlement of this type and, if honored, will result in preserving 50 million acres for use under the traditional approach to landholding – i.e., on a communal basis. It also furnishes capitalization for what might be the most significant cooperative economic venture organized so far in the United States.

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[30] See, for a discussion of this bill, Stewart E. Perry and Mark Frankena, "Land Title for the Alaska Natives and Their Economic Development" (Cambridge, Mass.: Center for Community Economic Development, 1971).

TO: UNITED STATES SENATE
LABOR AND PUBLIC WELFARE COMMITTEE
SUBCOMMITTEE ON MIGRATORY LABOR
FROM: GARY J. NEAR, ATTORNEY AT LAW
DATE: JANUARY 13, 1972
SAN FRANCISCO, CALIFORNIA

RE: THE CALIFORNIA WATER PROJECT AND ITS EFFECTS ON THE ENVIRONMENT AND THE AGRICULTURE INDUSTRY

BIOGRAPHY - Mr. Near is an attorney in private practice in San Francisco and also a professor of law at the University of San Francisco. Mr. Near represents the conservation groups Friends of the Earth and the Sierra Club in a present lawsuit challenging the California Water Project in the United States District Court in San Francisco. The name of the case is Sierra Club, Friends of the Earth, et al., v. Morton, et al., No. C-71-500 SAW.

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The California Water Project, a joint federal-state project, is the largest water project in the United States, both in terms of public financing and its impact on the environment. The project consists of a series of dams, reservoirs, aqueducts, and pumping plants that are designed to transfer surplus water that exists in Northern California and the San Francisco Bay-Delta Region to the water-deprived areas of California's Central Valley and the Southern California region, primarily Los Angeles metropolitan area. The cost of this project ranges from $4 billion to $10 billion, depending upon what system of accounting is used and what factors are taken into consideration.

Unquestionably, a project of this magnitude and sophistication does yield substantial benefits to many sectors of the California economy, in addition to recreational benefits and certain environmental benefits such as flood control. However, my testimony before this committee will not elaborate on the benefits of the California Water Project; rather it will raise the problems presented by the California Water Project as it affects the environment, and more particularly how it affects the agriculture industry in California.

When the California Water Project was passed into legislation in the early 1960's it, like many other public projects, was heralded as a godsend designed to solve all the problems of water resource allocation. This optimistic forecast began to erode away as the evidence began to accumulate as to the effect of the massive water transfer on the environment in California.

In order to receive an overview of the impact of the California Water Project, it would be helpful to break down this project into three geographic areas and separate out the environmental effects in rough dimensions in these areas. In Northern California, especially the area above San Francisco, the effect focuses on the damming up of wild rivers in this area. Rivers such as the Sacramento, Klamath, Eel and Trinity have been converted from their natural and wild state to rivers that have periodic dams and reservoirs on them. The second large area of concern is the San Francisco Bay-Delta region. The overall effect of the California Water Project in this area is to divert fresh water which normally accrues to the Bay-Delta region from the Sacramento and San Joaquin Rivers. The diversion of the fresh water from these rivers has a resultant effect of seriously aggravating the water pollution of the San Francisco Bay and diminishing the agricultural vitality of the fertile Delta region. The third area effected by the Water Project is Southern California. The environmental effects of the Water Project in this area become somewhat speculative; however, suffice it to say that the Water Project allows for massive residential, commercial and agricultural development in an area that may not well be suited for the volume of the development that is anticipated by the Water Project. The serious and acknowledged problems of air pollution, urban sprawl and land speculation are definitely connected to the massive transfer of water provided by the California Water Project. Without this water transfer, these problems would not have reached the magnitude and severity of the present level.

The connection between the Water Project and the agriculture industry in California is direct and substantial. It is common knowledge that a major reason for the promotion of the California Water Project was to circumvent the more restrictive control of the Federal Reclamation Laws, specifically the 160-acre limitation. The California Water Project has no acreage limitation as to the amount of water available for agricultural development. In this respect, the California Water Project expressly encourages large-scale and massive agricultural development. The more conspicuous examples of land ownership which document this contention are such agricultural combines as Tenneco, Standard Oil of California, Teejon Ranch and Southern Pacific Railroad, all of whom have agricultural farms in excess of 200,000 acres each. If it were not for the California Water Project these large combines could not exist. This Committee has heard previous testimony on the effects of these large agricultural conglomerates as to their competitive advantage over the small family farm in California, and these problems will not be discussed in this paper.

Concern over the environmental effects of the California Water Project mounted through the years and as studies were made and suspicions were converted into facts, the evidence against the California Water Project in many respects became of a serious nature. The adverse effect of the Water Project on such environmental considerations as water quality, fish and wildlife habitats, commercial fishing, recreational values and aesthetic enjoyment were drawn into question and the effect of the Water Project in many cases was of a permanent and irreparable nature. These shortcomings of the Water Project led conservation groups such as the Sierra Club and Friends of the Earth to take a hard second look at the Water Project. The result of this close reappraisal of the Water Project culminated in a substantial lawsuit filed by these groups last Spring. (This lawsuit will be submitted as an exhibit to this testimony.) In essence the lawsuit filed against the California Water Project charged that the existing project was in serious and substantial violation of several statutes, specifically the National Environmental Policy Act of 1969, the Rivers and Harbors Act of 1899, and the Fish and Wildlife Coordination Act. The present status of the lawsuit is that the government's motion to dismiss has been denied and the lawsuit is proceeding toward a trial. The relief sought by the lawsuit is compliance with the mandatory studies required by these federal statutes and appropriate permits to be granted for the construction of facilities that are part of the Water Project. Until these studies and permits are granted the lawsuit seeks to restrict any further development of the Water Project.

Approximately ninety percent of the California Water Project is completed. However, several major components of the California Water Project remain uncompleted and have not been affirmatively authorized by the United States Congress. I would likelto dwell a few minutes on these major components because I think this Committee should be aware of their impact on the environment and the agriculture business in California. Two major components which have not been built nor authorized by Congress are the "Peripheral Canal" and the "East-Side Canal". The purpose of these two canals is to divert the fresh water that comes out at the mouth of the Sacramento River around the Delta approximately 45 miles to the pumping plants located at Tracy in the heart of the Delta region. Although the proponents of these canals claim that many environmental safeguards will be instituted and the Delta region and the Bay Area will be protected by these canals, these are questionable conclusions that have dubious support in fact or logic. One effect of the Peripheral Canal is beyond question; namely, it will allow for approximately a doubling of the fresh water diversion from the Sacramento River into the California Water Project which will service the Central Valley region and the Southern California region. The East-Side Canal will have a similar effect.

Although it is perhaps presumptuous or maybe even foolish to say that these proposed additions to the California Water Project raise one central question, I think it is fair to say that these components do raise the following question. That question could be stated as follows: If there is not enough water to service the projected demands of the California Water Project, who is going to get the first priority of the water? This question can perhaps be best understood by realizing the effects of diverting the fresh water from the San Francisco Bay region and the effects of damming up the wild coast rivers in Northern California. The evidence accumulated in studies done by the United States Geological Survey and the California State Water Resources Department substantiates that there is an absolute need to have substantial fresh water through the Sacramento and San Joaquin Rivers flow into the San Francisco Bay-Delta region in order to protect the water quality of this area. Given this requirement, the question arises is there enough water to be transferred to the Central Valley region and Southern California to meet the projected needs of these areas? The answer seems to be No.

If this conclusion is correct, I would suggest to this Committee to examine very closely any request to extend the California Water Project through such components as the Peripheral Canal and the East-Side Canal. Quite apart from any justification on a cost-benefit formula, which would be hard to substantiate, it seems abundantly clear that the adverse environmental effects by further water diversion, as contemplated by the Peripheral and East-Side Canals, would be disastrous to the San Francisco Bay-Delta region and to the wild and scenic rivers of Northern California.

Another aspect of the California Water Project which should be of interest to this Committee is the treatment of agricultural waste waters. I refer to the drainage water that comes off agricultural areas that is loaded with herbicides, pesticides and other environmentally harmful chemicals. This is no mean problem, because it results in water pollution from these agricultural waste products flowing into fresh waters. The San Luis Drain is the component of the California Water Project which drains off the agricultural waste from the Central Valley region. This drain is woefully inadequate to separate out and treat the harmful chemicals which eventually flow into the fresh waters of the Delta region through the San Joaquin River. The dumping of these agricultural waste waters into these fresh-water areas seriously aggravates the already-existing water pollution problem of the San Francisco Bay. The solution to this problem is of a relatively easier nature than some of the other questions posed by the California Water Project; namely, treatment of these waste waters could separate out the harmful elements and allow recycled water to flow into the San Francisco Bay without any harmful effects.

In conclusion, I hope these observations provided a framework to view the impact of the California Water Project as it effects the environment and the agriculture industry in California. It should be obvious from these comments and the lawsuit discussed that a vigilant attitude exists among persons concerned about environmental quality and they will not hesitate to challenge extensions to the California Water Project.

U.S. SENATE,
COMMITTEE ON INTERIOR AND INSULAR AFFAIRS,
Washington, D.C., March 26, 1971.

Hon. JOHN W. MITCHELL,
Attorney General, Department of Justice, Washington, D.C.

DEAR MR. ATTORNEY GENERAL: There is pending before your Department the question of whether to appeal the decision of the United States District Court for the Southern District of California in the so-called Imperial Irrigation District excess land case (*United States* v. *Imperial Irrigation District*, No. 67-7-T).

I earnestly recommend that this case be appealed for the reasons set out in my enclosed letter to Solicitor Melich of the Department of the Interior.

In addition to what I have written to Solicitor Melich, I would point out that nearly all Federal reclamation projects for many years have been authorized by statutes employing language similar to that used in the Boulder Canyon Project Act which the District Court held did not incorporate the excess-land limitations by reference.

With all due deference to the District Court's view, it has never been questioned that the language in these authorizing acts which is substantially identical to section 14 of the Boulder Canyon Project Act makes the excess-land limitations of the Federal reclamation laws applicable. The District Court's opinion now, for the first time, raises a substantial question regarding whether the Department of the Interior, the Congress and the water user groups seeking project authorizations have been in error in assuming that authorizing a project subject to the Federal reclamation laws made excess-land limitations applicable.

In my opinion, it is essential that the issue of what the law now is be clarified. I hope that the Department of Justice will promptly authorize the United States Attorney to perfect an appeal.

Sincerely yours,

CLINTON P. ANDERSON,
Chairman, Subcommittee on Water and Power Resources.

MARCH 26, 1971.

Hon. MITCHELL MELICH,
Solicitor, Department of the Interior,
Washington, D.C.

DEAR MR. MELICH: As Chairman of the Senate Subcommittee on Water and Power Resources, I hope you will recommend to the Department of Justice that the United States appeal the decision in the *Imperial* excess-lands case.

As Judge Turrentine's January 5 opinion points out, the departmental review that culminated in Solicitor Barry's opinion of December 31, 1964 emanated from an inquiry I made on August 7, 1961, almost 10 years ago, as Chairman of the Senate Committee on Interior and Insular Affairs at that time.

The issues involved are of such importance to the future cause of water resource development that they require review at all appellate levels available.

Where Judge Turrentine's decision to be limited in its impact to the Imperial Irrigation District alone, appellate review would be warranted. The Boulder Canyon Project is itself a reclamation project of the first magnitude. The All-American Canal-Imperial Irrigation District was the largest reclamation project undertaken at the time of its authorization. In addition, Secretary Wilbur's 1933 letter and the circumstances under which it was written have given rise to questions that have continued to cloud administration of the excess land laws by the Bureau of Reclamation. These questions, I fear, will continue to exist unless all avenues of appellate review are exhausted.

Beyond that, and of perhaps greater compelling consequence is the fact that the impact of Judge Turrentine's opinion goes considerably beyond the present scope of Colorado River water service to the Imperial Irrigation District.

The Colorado River Basin Project Act of 1968 (P.L. 90-537) provides for the United States to make up deficiencies on present Colorado River flows by augmentation so that there will be available for beneficial consumptive use in the three lower basin states a total of 7½ million acre-feet annually. By section 305 of the Act, this augmentation water is to be available on the same terms as would be applicable if mainstream water were available for release in the quantities required to supply such consumptive use.

It is apparent, therefore, that whether or not excess-land limitation will be applicable to augmentation water supplied the Imperial Irrigation District by the United States at substantial additional cost will turn on the present state of the law. You will recall that the uncertainty over this point revealed in the course of the Senate hearings on what became the Colorado River Basin Project Act was itself an additional contributing factor leading to the review of the law reflected in the Barry opinion.

I am not a lawyer and do not presume to pass judgment upon the legal questions involved in this litigation. However, it seems to me that Judge Turrentine's holding introduces substantial uncertainties into the applicability of excess-land limitations which should be clarified by appellate review.

To begin with, a holding that a provision such as section 14 of the Boulder Canyon Project Act is not itself sufficient to render excess-land limitations applicable to a particularly project calls into question the applicability of the excess land laws not only to all irrigation projects receiving a water supply from Hoover Dam storage but to other projects authorized by Congress with language similar to section 14. An obvious example is Coachella, for the applicability of the excess-land limitation to the Coachella Valley has not been litigated. A further example is the Central Arizona Project itself, for the excess land laws are not mentioned in the Colorado River Basin Project Act and are applicable only if incorporated into that Act by reference. The same is true of the upper Colorado River Basin projects authorized by the Colorado River Basin Project Act. For that matter, the question arises also as to the upper basin projects authorized by the Colorado River Storage Project Act of 1956. It too incorporates reclamation law by a provision similar to section 14 of the Boulder Canyon Project Act.

Yet another example of the Central Valley Project. Reclamation law is incorporated into the authorizing act of August 26, 1937, only by language similar to section 14 of the Boulder Canyon Project Act.

In most of these cases, as in the Boulder Canyon Project Act, specific payment treatment requirements are prescribed which depart from the standards prescribed by section 46 of the 1926 Act as well as from those prescribed by section 9 of the Reclamation Project Act of 1939, which latter Act itself makes no mention of excess-land limitations.

The uncertainties introduced by the reading Judge Turrentine gives to section 14 exist whether or not the lands involved have a pre-project history of irrigation. It is by no means clear that Judge Turrentine's opinion regarding the construction of the Boulder Canyon Project Act is dependent upon his conclusions respecting the significance of pre-project irrigation in the Imperial Valley.

A second area of uncertainty introduced by the opinion deals with the relationship between excess-land limitations and pre-project use of water. These uncertainties are west wide in their implications. Most Federal reclamation projects are supplemental water projects. It is entirely possible that extensive litigation may now ensue before the effect of pre-project irrigation on the applicability of the excess-land laws is clarified. Certainly, any suggestion that supplemental water projects should be exempt from the excess land laws by Congress would engender great controversy. When such an attempt was made back in the middle '40's, involving principally the Central Valley Project, it was rejected by the Congress but the turmoil that ensued plagued the reclamation program for many years. A lower court holding that can be read as possibly having such an effect similarly can be expected to give rise to extensive controversy in connection with future authorizations which could have a substantial adverse impact upon the reclamation program.

It is only through prompt appellate review that authoritative determinations can be reached as to the present state of the law respecting applicability of excess-land limitations. It is essential to future reclamation authorizations, in my opinion, [illegible] the uncertainties introduced by Judge Turrentine's opinion be clarified.

As for the merit of the legal question, there is substantial doubt concerning the legal validity of the Court's holding as demonstrated by the fact that the Solicitor General of the United States in the Eisenhower Administration felt it necessary to state to the Supreme Court's Special Master hearing *Arizona* v. *California* that, in his opinion, excess-land limitations are fully applicable.

For these reasons, I hope you will agree with me that this case deserves the fullest appellate scrutiny.

Sincerely yours,

CLINTON P. ANDERSON,
Chairman, Subcommittee on Water and Power Resources.

[Filed Mar. 29, 1971—Clerk, U.S. District Court, Southern District of California, by ——— Deputy]

In the U.S. District Court for the Southern District of California

UNITED STATES OF AMERICA, PLAINTIFF,

vs.

IMPERIAL IRRIGATION DISTRICT, A CORPORATION, DEFENDANTS

JOHN M. BRYANT, ET AL., INTERVENORS, BOTH INDIVIDUALLY AND ON BEHALF OF A CLASS, TO-WIT, ALL PERSONS OWNING MORE THAN 160 ACRES OF IRRIGABLE LAND WITHIN THE IMPERIAL IRRIGATION DISTRICT,

STATE OF CALIFORNIA, INTERVENOR.

BEN YELLEN, ET AL., APPLICANTS FOR INTERVENTION

Civil No. 67-7-T

Affidavit of Frank J. Barry in support of Motion to Intervene

Arthur Brunwasser
445 Sutter Street, Suite 501
San Franisco, California 94103,
Telephone: (415) 391-2203 attorney for applicants

STATE OF OREGON
County of Lane, ss:

Frank J. Barry, being first duly sworn, deposes and says:

That I reside at 2085 University Street, Eugene, Oregon; that I am a Professor of Law employed by the University of Oregon; that I teach Property, Environmental Law and Natural Resources Law;

That I served as Solicitor of the Department of the Interior from January 30, 1961, to April 7, 1969; that the Solicitor is the chief legal officer of the Department of the Interior; that a major part of the business of the Solicitor during the years that I held that office was the study, interpretation and application of the excess land provisions of the Reclamation Laws of the United States;

That I have read the opinion of the Honorable Howard B. Turrentine, Judge of the United States District Court for the Southern District of California in the case entitled, "United States of America v. Imperial Irrigation District, et al." (No. 67-7-T of the files of said Court); that I have noted Judge Turrentine has held that said excess land laws do not apply to the Imperial Irrigation District; that this opinion is the opposite to the one I reached in my opinion of December 31, 1964;

That my said opinion was arrived at after careful study by the most experienced reclamation lawyers in the Department of the Interior; that it was concurred in by the Attorney General of the United States; that it was shared by the Solicitor of the Department of the Interior, Honorable Fowler Harper, in the Truman Administration (71 Int. Dec. 496, at 531–548) and by the Solicitor General in the Eisenhower Administration (71 Int. Dec. 496, at 555); that the circumstances of the issuance of the informal opinion of Secretary Wilbur "granting" the exemption, the fact that we were unable to find any evidence in the Department that Secretary Wilbur's Solicitor considered the informal opinion and the fact that none of those who recognized the exemption ever pretended to rely on more than that it was based on Secretary Wilbur's informal opinion, all raise doubts as to the correctness of the informal opinion;

That notwithstanding the conviction of the lawyers in my office, and of myself, and the lawyers in the Department of Justice, of the applicability of the excess land laws to the Imperial Irrigation District, we expressed a willingness to the representatives of the District and of the large landowners in the District to submit the entire issue for a judicial determination before taking steps to enforce what we thought and think to be the law; that this was the subject of the negotiations referred to by Judge Turrentine on p. 4 of his Memorandum of Opinion;

That the highest legal officers of three successive administrations have cast serious doubts on the validity of the informal Wilbur opinion; that I agree with Judge Turrentine that "the decision whether acreage limitation applies under the [Boulder Canyon] Project Act involves important considerations of national policy"; that, in my opinion, and with respect to Judge Turrentine, this case must be appealed to the highest courts so that these "important considerations of national policy" can be finally resolved; that, in such an important case as this, it is no more fitting that Judge Turrentine's opinion should be the last word than should the opinion of the Solicitor of the Department of the Interior.

Dated this 20th day of March, 1971.

FRANK J. BARRY.

Subscribed and sworn to before me this 20th day of March, 1971.

BRYCE NOSHER,
Notary Public in and for said County and State.

DEPARTMENT OF JUSTICE,
Washington, D.C., April 16, 1971.

Hon. CLINTON P. ANDERSON,
Chairman, Subcommittee on Water and Power Resources,
U.S. Senate, Washington, D.C.

DEAR SENATOR ANDERSON: This is with further reference to your letter of March 26, 1971, addressed to the Attorney General recommending that the District Court decision in the case of *United States v. Imperial Irrigation District* be appealed, and my reply thereto dated April 2, 1971. No doubt you are aware that on April 8, 1971, the Solicitor General determined that an appeal of the District Court decision would not be authorized. In advising me of his decision, the Solicitor General referred to your interest in the matter and suggested that I write you further respecting it.

As you know, the lawyers of this Division who tried the case in the District Court argued vigorously in support of an interpretation of the Boulder Canyon Project Act contrary to that arrived at by the Distict Judge. Basically, the agument was that the provisions of Section 14 of the Project Act, together with the references to Reclamation Law in Sections 1 and 4(b) of the Project Act, made the provisions of Section 46 of the 1926 Omnibus Adjustment Act applicable to the repayment contract entered into, under date of December 1, 1932, with Imperial Irrigation District.

But the District Judge was not persuaded that the general references in the Boulder Canyon Project Act to reclamation law were sufficient to evidence a clear intent on the part of Congress to impose the excess land provisions of Section 46 of the 1926 Act on the privately owned excess lands in Imperial Valley. Instead, he found that other provisions of the Project Act and the legislative history indicated a contrary intent. And for this interpretation he found confirmation in the fact that the Secretary of the Interior had determined in 1933 that Congress did not intend to impose acreage limitation on privately owned lands in the Valley and that nothing was done for 31 years, either administratively or by congressional action, to disturb this determination. Similarly, the Solicitor General's decision was primarily based on the fact a decision had been made in 1933 and there was no action to reverse it until the Solicitor's opinion was issued December 31, 1964. Under these circumstances he concluded it was inappropriate for the Government further to pursue the matter by seeking appellate review of the District Court judgment.

I respectfully suggest that the lesson to be learned from our experience with this case is this: If the enforced subdivision and sale of privately owned lands in excess of a limited acreage which will receive the benefits of a federal reclamation project continues to be a viable and fundamental policy of the reclamation program, there is crying need for congressional action today so declaring and to preclude frustration of the policy by administrative or judicial interpretation of statutes the age of which leave them open to attack as allegedly archaic and not reflective of modern realities. To at least some who have had substantial experience in this field of the law, there is little room to doubt the wisdom or the viability today of the basic policy. But the Statutes at Large are replete with case after case in which the Congress itself has omitted to address the problem. Indeed, in some instances where the problem has actually come up for debate, it has been left without resolution by the pending legislation, with both the proponents and the opponents of acreage limitation being content to avoid a showdown in the apparent hope that their remarks in the legislative history would lead to an administrative or judicial resolution in accord with their respective views. For example, you will recall that in connection with the San Luis Unit of the Central Valley Project, when the question of applicability of acreage limitation to the state service area was under debate, one of the most ardent advocates of the limitation declared it was his purpose simply to leave the question open for resolution by the courts. Opinion M 36635, 68 I.D. 412, 415, 416.

In your letter of March 26, 1971, you concluded with the statement that, in your opinion, it is essential that the issue of what the law now is be clarified. I respectfully suggest that there is at least an equal need for modern legislation clarifying whether it continues to be congressional policy that the break up of pre-existing excess holdings of privately owned lands is a condition to their receipt of project benefits. There is also need for further legislation so that no funds will be appropriated for, and construction will not be begun on, any project to which Congress intends acreage limitation to apply without there first being executed the contracts essential to the execution of this policy.

Please be assured that we in the Department share your concern in this important problem and that we greatly appreciate the thoughtful analysis you submitted in support of your recommendation.

Sincerely,

Shiro Kashiwa,
Assistant Attorney General, Land and Natural Resources Division.

Department of Justice,
Washington, April 16, 1971.

Mr. David Brower,
Friends of the Earth,
San Francisco, Calif.

Dear Mr. Brower: Thank you for your letter of April 5, 1971, addressed to the Attorney General recommending appeal from the decision of the United States District Court for the Southern District of California in the case, *United States v. Imperial Irrigation District*. On April 8, the Solicitor General decided that an appeal would not be authorized.

The basis for the Solicitor General's decision was primarily that the Secretary of the Interior had determined in 1933 the excess land provisions of reclamation law do not apply to privately owned lands in the Imperial Valley and that this determination was not disturbed by either administrative or Congressional action until the opinion of the Solicitor for the Department of the Interior was issued December 31, 1964. Under these circumstances, the Solicitor General concluded it was inappropriate for the Government further to pursue, at this date, an effort to reverse the 1933 determination by seeking appellate review of the District Court judgment.

While the Solicitor General's decision controls appealing the District Court decision, please be assured that we do share your concern for the excess land policies of reclamation law generally. I think, however, that the decisions of the trial court and the Solicitor General with respect to Imperial Valley suggest a real need for updating the excess land laws and their applicability to particular projects if frustration of the policy by judicial or administrative interpretation is to be avoided.

Sincerely,

Shiro Kashiwa,
Assistant Attorney General, Land and Natural Resources Division.

Manhattan, Kans., May 28, 1971.

Mr. Erwin Griswold,
Solicitor General, Justice Department,
Washington, D.C.

Dear Mr. Griswold: You may have read the report in *New Republic* (May 8, 1971) of the recent decision and lack of appeal concerning the Imperial Valley land ownership (Water, Water for the Wealthy, pp. 9 ff). The report of your part in the decision not to appeal makes you appear to be a man of little integrity. If you can explain how a man with respect for the law of the land, as passed by Congress and validated by the President's signature, can countenance such action, or lack of it, I would appreciate hearing it.

The whole action smells of rot at the core of our government and makes me wonder whether the long-haired kids who talk of getting rid of it may not have some validity to their thinking.

Yours with dwindling respect,

Mrs. STEPHEN L. STOVER.

[Excerpts from hearings before the Subcommittee on Irrigation and Reclamation, 85th Cong., 2d sess., on S. 1425, S. 2541, and S. 3448, Apr. 30 and May 1, 1958]

STATEMENT OF HARRY W. HORTON, CHIEF COUNSEL, IMPERIAL IRRIGATION DISTRICT, CALIFORNIA

Mr. HORTON. Chairman Anderson and members of the committee, I am imposing upon you because I have a plane reservation to leave this afternoon, and I have to go back to California.

My name is Harry W. Horton. I am an attorney engaged in the general practice of law in California. I have been chief counsel of the Imperial Irrigation District since April 1934. I am a member of the legal staff of the Irrigation Districts Association of California. I happen to be one of the counsel in the Ivanhoe case that was just mentioned. I happen to be one of the counsel in the case of Arizona versus California, now pending, for which I have to return to California for the resumption of trial.

My legal work for the last 15 years has been almost entirely in connection with water matters and reclamation law.

If I may beg your indulgence to refer to page 13 of the memorandum dated April 25, 1958, which refers to an opinion of the Solicitor that makes reference to the Boulder Canyon Project Act. I would not have been here had it not been for the fact that I found that in circulation and my only request in that regard is this: I hope that in any report made by this committee there will be no presumptions indulged in in favor of Mr. Harper's opinion.

Senator ANDERSON. I did not care anything about Mr. Harper. What I am trying to get you to comment on is this. Section 46 of this Omnibus Adjustment Act of 1946.

"No water shall be delivered upon the completion of any new project or new division of a project until a contract or contracts approved by the Secretary of Interior—"

and so forth—

"shall have been entered into. Such contract or contracts—"

I have skipped a great many words—

"shall further provide that all irrigated land held in private ownership by any one owner in excess of 160 irrigable acres shall be appraised in a manner to be prescribed by the Secretary of Interior and the sale prices thereof fixed by the Secretary on the basis of its actual bona fide value of the date of appraisal without reference to the proposed construction of irrigation works and no such excess land so held shall receive water from any project or division if the owners thereof shall refuse to execute a valid recordable contract for the sale of such land under terms and conditions satisfactory to the Secretary of Interior—"

and so forth.

If it is decided that the 160-acre limitation does not apply, then the Secretary of the Interior can't put that in the contract. If he cannot put it in the contract, he cannot deliver any water. Had we not better know that before we authorize any more projects?

Mr. HORTON. Senator Anderson, I would like to comment on that in this way. I think I am fully familiar with that section 46 of the act of 1926.

Senator ANDERSON. I did not mean to infer that you were not. I want you to tell me what the Secretary should do if the Supreme Court holds that these 160-acre limitations are not valid, and he cannot sign a contract until you put a 160-acre limitation in it.

Mr. HORTON. In the first place, let me tell you what has been done where such a case has come about. In the State of Wyoming the Supreme Court of Wyoming had before it the very question of section 46 in a contract which provided for the acreage limitation and the recordable contract that you have made reference to. The Supreme Court of Wyoming in analyzing the requirements of that contract made the statement in substance that the principles contained in that of the enforced sale of the property that a man had worked and lived on and acquired and built up was contrary to the fundamental principles of our Constitution and our right to own, hold, and acquire property, and that any such contract would not be enforceable, and would not be permissible under Wyoming law. As a result of it, in the Owl Creek project, in Wyoming, the contract which the Government sought to have there made in keeping with section 46 of the act of 1926 was declared to be one that would not be legal in the State of Wyoming.

The result was that within a few months after that Congress passed an exemption of the Owl Creek project so far as the acreage limitation is concerned.

Senator ANDERSON. Then it would be your theory——

Mr. HORTON. No, I do not say that is the only answer to it. I will give you another. In connection with these same contracts in connection with the Central Valley—and heaven forbid my trying to argue or have a lawsuit decided or any influence based upon it by appearing before this committee, that is not my purpose—involved in the Ivanhoe case is not only the acreage limitation, but the question of water rights. That is involved in any case where existing water rights exist. That is, where there is a going project as has been referred to by Mr. Bert Smith, where the land is within a developed project in those areas of a water right, the court in California held that you could no more limit the use of water within the State of California, regardless of its source, whether it came through a Federal project or a non-Federal project or whatever its source might be, you could no more limit that on the basis of the acreage than a man might own, because it came from a Federal project, than you could from a non-Federal project, and held that the authorization by the California legislation for the delivery of water in keeping with the Federal statute was special legislation under the California law, and not general legislation of uniform application as required by section 11 of article I of the California Constitution. The California Legislature had attempted to validate the Ivanhoe contract by specific language. The California Supreme Court held that the court could not validate it, because they could not pass an act which would permit discrimination between landowners in California on the basis of the acreage they owned.

I may paraphrase it by saying any more than you could say the man could only own one automobile, provided so much money or he could only use the highways or could not use the highways if he had 2 automobiles instead of 1.

The answer to the situationis twofold. One, what happened in Wyoming, and the other is the recognition by the Federal agencies of what has been a long recognized proposition. In 1911 the Attorney General of the United States issued an opinion to the Department of the Interior to the effect that where there was an existing water right the acreage limitation was not applicable and not required. In 1916, the Department of the Interior in its rules and regulations wrote into those rules and regulations that the acreage limitation was not applicable where a water right already existed. That same ruling exists in title 43, section 627, I think, or approximately that, of the Federal Code of Regulations today having to do with the regulation of the Department of the Interior.

In 1934, in connection with the Boulder Canyon Project Act, the then secretary of the Interior issued a ruling that the acreage limitation was not applicable to Imperial Valley because the Imperial Valley had been a going concern from 1902 up until that time, had their own water rights and that having those water rights, the acreage limitation was not compulsory, and was not required, and the act of 1926 was in existence at that time. That ruling was followed by a validation proceeding in California in which the issue was tried. The Government representatives were present. The issue was known and the trial court specifically held that where a water right existed, the acreage limitation had no application.

That validation decree was entered in 1934 and nobody ever raised a question on the proposition until the Department of Justice raised it here about 3 weeks ago.

I submit this for your committee's consideration.

In addition to these questions that no uniform acreage limitation can be applied, that it is workable in all areas, and it is workable under all circumstances, to the same extent the question of the application of the acreage limitation at all in an area where it is a going concern, where it is fully developed, where the men by the sweat of their brows have developed and bought and acquired the land and have it and have worked it—I am not now talking about large corporations. I am talking about, for instance, Mr. McCracken, in the Ivanhoe case, owns 309 acres of land which he has developed, and all but 20 are planted in grapes. He is a bachelor and because he is a bachelor he is condemned to divide up his land and sell it.

Water was appropriated for that land under State Law. The right exists and yet the Government comes in under circumstances of that kind and says that Mr. McCracken must make a selection of the land he is going to keep.

I want to make one further comment as long as we are talking about section 46 of the act of 1962, because I hear repeated comments from people here to the effect that the acreage limitation, the limitation on the delivery of water has nothing to do with a man's ownership of land. It does not affect his ownership of land. It is merely a privilege of getting water.

Let me follow through on the provisions of section 46 and the contracts thereunder:

The first thing that happens to a man who is in the district, who is in the district against his will, has objected to being brought in, because he already has a water right, his land is fully developed, which is Mr. McCracken's position, the first thing that happens is that he gets a letter from the Department of Interior instructing him within 30 days to chose the 160 acres that he is going to stay on and if he does not do it within 30 days the board of directors of his district will come out and tell him, "Mr. McCracken, this is the place that you can live and farm and have water. The rest of your land is set apart." If the board of directors does not follow through and do it, then the Secretary of Interior or some of his representatives makes a selection for Mr. McCracken.

Now, let us carry it one step further. The construction of section 46 is that if a man owns 160 acres in two different irrigation districts, he has to decide which irrigation he is going to stay in. If he owns 160 acres in an irrigation district in Nebraska and 160 acres in California, the result is that the Secretary of Interior, if the directors refuse, tells him whether he can live in California or whether he can live in Nebraska.

Senator ANDERSON. What was that again?

Mr. HORTON. If a man owns 160 acres—I am taking the bachelor situation——

Senator ANDERSON. No, you said it was a case.

Mr. HORTON. I say if he owns 160 acres in an irrigation district in a reclamation project in California, and if he owns 160 acres within a reclamation district in the State of Nebraska, and he refuses and the directors of his district refuse to select for him the 160 acres he is to keep, then the end result is that the Secretary of Interior tells him whether he can live in California or Nebraska.

Senator ANDERSON. This is new to me. You are telling us seriously?

Mr. HORTON. I am telling you seriously. I am not guessing.

Senator ANDERSON. May I finish one sentence. This is three times you have chopped me off.

Mr. HORTON. All right.

Senator ANDERSON. Do you mean to say that the Secretary of Interior has ruled that in 4 or 5 irrigation districts across the country a man is limited to 160 acres total?

Mr. HORTON. That is right.

Senator ANDERSON. When did he do that?

Mr. HORTON. It is the Solicitor's opinion. I don't have it with me, but I can make it a part of the record.

Senator ANDERSON. Will you supply it for the record?

Mr. HORTON. I certainly will.

Senator ANDERSON. I will be happy to see it, because as far as I know, they have taken exactly the opposite position. I may be wrong.

Mr. HORTON. They have issued opinions to the contrary that it means a total of 160 acres in all the irrigation projects within the reclamation project of the United States.

Senator ANDERSON. I want a compliance. I am happy to know that.

Mr. HORTON. I think this, Senator Anderson. There is more consideration than the mere matter of the flexibility of the acreage limitation with respect to the family size farm in X area as against Y area.

Senator ANDERSON. Let us get to one area where we do know something about this problem. This is the San Luis project. The Southern Pacific owns over 100,000 acres in the San Luis District. Is it your statement that whether we write a 160-acre limitation in the bill it is under these rulings invalid?

Mr. HORTON. No, the act is not invalid.

Senator ANDERSON. The limitation is invalid.

Mr. HORTON. If there is an irrigation district formed to serve that area, then that irrigation under California law cannot enter into that contract. That does not prevent the Federal Government from making some contract with the Southern Pacific to furnish water to that land with the acreage limitation in it.

Senator ANDERSON. In it?

Mr. HORTON. That is right. The only holding of the California court is that a public agency of the State of California cannot discriminate among its citizens on the basis of how much land they own.

Senator ANDERSON. Having disposed of what he can do with the 160-acre limitation in it, can he make a contact with the Southern Pacific without the 160-acre limitation in it on the 100,000 acres of land?

Mr. HORTON. I don't know whether that area has a water right. If they do have a water right, then under the regulations that exist in title 43 of the Federal Code of Regulations, they could make such a contract with them.

Senator ANDERSON. Southern Pacific has stated, I believe—I am not trying to quote them because they are well able to speak for themselves by high priced spokesmen—that they do not intend to divide their land.

Mr. LINEWEAVER. They have modified their position somewhat in the final.

Senator ANDERSON. I cannot keep track of it.

Mr. LINEWEAVER. I would say, Mr. Chairman, that the last letter we had from them was that they are still resisting coming in under the reclamation law, but said they did not desire to sell or enter into a recordable contract. They have not agreed to it.

Mr. HORTON. I don't know anything about the Southern Pacific's holdings. I am somewhat familiar with the San Luis project.

Senator ANDERSON. Jack O'Neill's holdings. Suppose he decides he does not want to sell?

Mr. HORTON. Apparently Jack does.

Senator ANDERSON. He might change his mind. The Southern Pacific changed its mind.

Mr. HORTON. He may. Let us lay the cards on the table with respect to Jack O'Neill. I will give you my own opinion of Jack O'Neill's willingness to sign the 160-acre limitation. He thinks if he gets water for 10 years on there without having to sell it, he can make enough money out of it so he can afford to sell the land at any old price. That is my own opinion of Jack O'Neill's willingness to back the San Luis project and accept the acreage limitation. You will have to ask him if that is his real reason, but that is my candid opinion for it.

Senator ANDERSON. Do you have any other comments to make?

Mr. HORTON. I have this additional comment. I do want to comment on the statement made by the gentleman who spoke just before Mr. Bert Smith, and that is this question of the cost of farm machinery and its relation to acreage limitation. In the Imperial Valley we have a soil condition where we have to do what we call subsoil interchiseling. We break the ground up to 24 to 28 inches deep.

Senator ANDERSON. I want you to know that chiseling is not unheard of in Washington.

Mr. HORTON. This is a little different kind of chiseling. It takes an RD–8 to pull one of those chisels. That costs about $26,000 now. Can you imagine anybody with 160 acres or 320 acres having a tractor that he used only part of the time having to invest $26,000 in the Caterpillar tractor, and then buy the rest of his equipment that is necessary to go with it for heavy farming? You can't do that.

I want to make one more statement. I want to plead for the fellow who has gone out on the raw land and has developed against storm and weather and heat and everything else, and has acquired himself more than 160 or more than 320, and who has a water right, and then because against his will his land is included in a project he is tapped with a stigma, if it be such, of being a large landowner because he may own 60 acres or 100 or 200 acres more than the 160 or 320, and then be compelled to sell his land.

I would like to leave this parting thought with you. I think Congress completely overstepped its bounds in section 46 of the act of 1926, and I think one of the best things that Congress might do, if you don't mind a cow country boy's suggestion, is to repeal section 46 of the act of 1926, and put something workable in it because that act that forces a man who has a piece of property to be confronted with a letter to make his selection in 30 days as to which portion of his ranch he is going to stay on will lead to the ultimate doom of reclamation laws before the courts of this country.

California and Wyoming are the first two courts. In New Mexico, your own State court went along with the proposition that the acreage limitation was legal in New Mexico.

Senator ANDERSON. I am glad to have you say that, because from Mr. Douglas' testimony this morning, I was not sure.

Mr. HORTON. I do seriously plead for the man who has developed his land and has a water right, and then is tapped with this idea that he is an excess landowner because he has a few acres over and above it. If he has gone ahead and developed it, isn't the philosophy of the family-sized farm and the acreage limitation so sacred that it completely offsets a man's right to work, to live, and to acquire property. I don't think it was ever designed for that. I think it just goes too far and these laws are antiquated and need a complete overhauling. I think they should leave out of these acreage limitations these areas that already have their water rights.

Senator ANDERSON. Thank you.

U.S. DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SOLICITOR,
Washington, D.C., March 31, 1970.

To: Regional Solicitor, Sacramento.
From: Associate Solicitor, Reclamation and Power.
Subject: Eligibility of land under recordable contract Nos. 175r—4661 and 14-06-200-2485—Perelli-Minetti Corp. to 26 Perelli-Minetti corporations, southern San Joaquin municipal utility district. (Memorandum of May 22, 1969, from Mr. Dauber, assistant regional solicitor, Sacramento region.)

By the subject memorandum the Assistant Regional Solicitor requested the advice of this office on the question of whether the transfer of excess lands originally owned by A. Perelli-Minetti & Sons, Inc., a family corporation, is a disposition of ownership which meets the requirements of reclamation law and the recordable contract covering such lands.

According to the information furnished this office, the Perelli-Minetti Corp. in early January 1965 broke up its ownership of some 1,909 acres of land within the Southern San Joaquin Municipal Utility District which were excess and under recordable contract. The corporation transferred all its land and other assets in 26 undivided interests to 26 newly formed corporations as a capital contribution for all of the stock of each of the 26 new corporations. Each of the 26 shareholders of the parent corporation was then given all of the stock of one of the 26 corporations and the parent company was dissolved. The 26 new corporations have contracted with an unincorporated business entity called A. Perelli-Minetti & Sons to manage the farm operation. Our review of this excess land disposition and of the applicable law, previous decisions of the Solicitor's office and administrative interpretations leads us to the conclusion that, in the absence of conditions in the transaction which effectively bar the exercise of the elements of beneficial ownership by the new corporations (no such conditions are disclosed in the material submitted to this office), it meets the transfer requirements of the recordable contracts. Accordingly, the lands in their present ownerships are eligible for the clearances necessary to entitle them to receive project water.

Under the juristic concept of the corporate entity it is now generally accepted that a corporation may be recognized as a private owner in law under both Section 5 of the Reclamation Act of 1902 and under Section 46 of the Omnibus Adjustment Act of 1926. As residential operation of project lands in tracts not exceeding 160 acres as a prerequisite to the right to obtain project water has long been discarded, the important element of compliance with the excess land provisions is "ownership," with its concomitant right of title, dominion and control. In opinion M–36729, April 22, 1968, the then Solicitor propounded three rules by which multiuple ownerships using the corporate device are to be tested. These rules, the first two of which, at least, are considered to be realistic and proper legal tests to apply to family or other close held corporations, are:

1. No corporation may own more than 160 acres in a single reclamation project as eligible land for project water.

2. The corporate form may be disregarded to determine whether any stockholder, as a beneficial owner of a pro rata share of the corporate land holding, owns land in excess of 160 acres.

3. The corporation must not have been created for the primary purpose of avoiding application of the excess land laws.

The transfer by A. Perelli-Minetti & Sons, Inc., of an undivided interest of 160 acres or less to each of the 26 newly formed corporations, the sole stockholder of each of which was a former stockholder in the original corporation, meets the requirements of rules one and two. No one of the 26 new corporations owns an interest in more than the 160 acres permitted by law. As each corporation is an entity owned by a single stockholder, no one of whom is shown to own other project lands or interests therein or stock in any of the other corporations, the requirements of the second rule have likewise been fulfilled. The fact that each of the new corporations has identical officers and boards of directors at this time is unimportant as the legal ownership and the right to exercise dominion over and to control the destiny of each corporation is vested in the stockholder of that corporation. The identity of officers and directors goes to the question of operation and management and not to ownership. The stockholder is empowered to dictate policy to the officers and directors who are his agents; he may relieve them of their duties if they do not comply with his directions. He may exercise these powers only a little or not at all, but it is the possession of the powers, not the manner in which they are exercised that governs here.

Some doubt has been expressed informally as to whether the transfers meet the requirement of the third rule. The doubt is occasioned by the fact that the total acreage continues to be operated as a unit under essentially the same management and guidance and in the same manner as it was under the former corporation which is now dissolved and by the fact that the transfer may be treated by the Internal Revenue Service as a tax-free corporate reorganization under Section 368 of the Internal Revenue Code. The possibility of fraud supplies the reason for the third rule. If the requirements of the first and second rules are met and fraud is absent the purposes of the acreage limitation provisions in restricting water deliveries to 160 acres in a single ownership would seem to have been fully satisfied.

The Department has been indifferent to the size of the functional, operational farming enterprise, except where initially establishing farm units on reclamation projects on public land. It has approved multiple ownerships knowing that prior unitary farming operation would not be changed (Sun Valley Ranches, Dec. 3, 1965). Management contracts were acceptable for the DiGiorgio sale units. Large scale leasing operations wherein the right of control of the owner-lessor largely is passed to the lessee, are not questioned. Apart from land speculation considerations, the excess land laws are more concerned with legal relationships than with economic consequences. The transfers in this case represent distributions to children and/or other individuals who were each stockholders in the original corporation and whose entitlement to hold an undivided interest in their individual capacity is beyond question. That the individual chose to convert himself into a corporate entity in order to obtain favorable tax treatment does not convert an otherwise acceptable transaction into one repugnant to the acreage limitation provisions.

The objections which have been leveled at this case in an effort to defeat the attempt to comply with the disposition requirements of the recordable contract seem to have disregarded the fundamental statutory and legal tests of "ownership" in favor of economic or social considerations. These objections must fall where the requirement of legal ownership and its incidents are met and no fraudulent purpose is shown.

The views expressed herein are limited to cases involving family and close held corporations. We agree with the observation in opinion M–36729 that the second rule cannot be practically applied to publicly owned corporations. In disregarding the corporate form it is not practicable to pierce through to the "ultimate owners." Each proposed distribution using the corporate form must be examined legally and realistically to insure the limitation of benefits to one owner of 160 irrigable acres as required by statute.

J. LANE MORTHLAND,
Associate Solicitor, Reclamation and Power.

Copy to: Deputy Solicitor
Assistant Commissioner of Reclamation Gil Stamm
Regional Director, Reclamation, Sacramento
Regional Solicitor, Denver
Regional Solicitor Los Angeles
Regional Solicitor, Salt Lake City
Regional Solicitor, Portland
Regional Solicitor, Tulsa
Field Solicitor, Boise
Field Solicitor, Ephrata

[Excerpts from hearings before Subcommittee of Senate Commerce Committee, 78 Cong., 2d sess., on H.R. 3961, May 1944]

STATEMENT OF NORTHCOTT ELY, ATTORNEY FOR STATE OF CALIFORNIA WATER PROJECT AUTHORITY

Senator OVERTON. Mr. Northcott Ely, you are attorney for the State of California Water Project Association?

Mr. ELY. I am attorney, Senator, for the State of California Water Project Authority.

Senator OVERTON. Authority.

Mr. ELY. Which is a branch of the State government.

In 1933 the State of California Legislature enacted the Central Valley Project Act, which was voted upon in referendum and sustained. This established the water project authority as a board of five members comprising the director of public works as chairman ex officio, the attorney general, the State comptroller, the State treasurer, and the director of finance.

The authority had power under the statute to issue revenue bonds in the amount of $170,000,000 and to construct the Central Valley project. This project had been developed by the State division of water resources, through investigation and reports and plans built up over a decade or more, which resulted in the preparation of the "State-wide water plan," of which the Central Valley project was a major feature.

The authority in 1935 presented to the Public Works Administration an application on for financing to construct the Central Valley features of the State-wide water plan, through the sale of the revenue bonds of the authority. Instead, however, at that time the President made an allocation of public works funds for the commencement of construction, but made the allocation to the Bureau of Reclamation, and work was undertaken at that time by the Reclamation Bureau. In 1937 the project, as has been indicated here, was directly "reauthorized" by Congress in the river and harbor act of that year.

Senator OVERTON. Let me interrupt you at this point. We shall be back in a few minutes.

(Thereupon, there was a brief informal recess, at the conclusion of which the proceedings were resumed, as follows:)

Senator OVERTON. We shall come to order. Mr. Ely, you may proceed.

Mr. ELY. Yes, sir.

The provision in the River and Harbor Act of 1937 which reauthorized this project, theretofore authorized simply by Presidential allocation under the Emergency Relief Act, did not expressly provide that the project should be subject to the excess-land provisions of the reclamation law; and for some time after 1937 an opinion was held in some quarters that since the project was for multiple purposes, including supplemental water for irrigation rather than for new public-land developments, it would not be subject to the excess-land provision of the reclamation law.

Senator OVERTON. You say the act of—was that the River and Harbor Act of 1937?

Mr. ELY. Rivers and Harbors Act of 1937.

Senator OVERTON. And made no reference to the reclamation law?

Mr. **Ely**. Not the excess-land provision. It provided that the project should be constructed in accordance with the reclamation law, as I recall. But in any event——

Senator **Overton**. Well, the reclamation law contained the excess land, does it not?

Mr. **Ely**. Yes.

Senator **Overton**. I am asking for information.

Mr. **Ely**. Yes; it does; the reclamation law.

Senator **Overton**. So that if it was subject to the reclamation, it would be subject to the excess land.

Mr. **Ely**. Well, I think the correct legal opinion is exactly what you have expressed.

Senator **Overton**. Yes.

Mr. **Ely**. That the project is subject to the excess-land provision of the reclamation laws, although, as I say, for some time there was a divided legal opinion on that point, which I shall not go into for the moment.

Senator **Overton**. Let me ask you now, before you get on: You start out by saying that California was getting ready, the State itself——

Mr. **Ely**. Yes.

Senator **Overton**. To appropriate, I think it was, $135,000,000.

Mr. **Ely**. $165,000,000 was the estimated cost; the authorized bond issue was $170,000,000.

Senator **Overton**. One hundred and sixty-five million, this project. Did it ever expend any money on it?

Mr. **Ely**. No. Instead of the P. W. A. buying those revenue bonds, the allocation was made to the Reclamation Bureau to construct the project, instead.

The State law under which this authority is created, my client in this matter, does not contain any excess-land provision itself. The problem we are confronted with arises under the Federal reclamation law, not under any State statute.

Senator **Overton**. Well, California has no financial outlay in the project?

Mr. **Ely**. There is expenditure of State funds except in the investigation and engineering work that preceded it, amounting to the general order of a million dollars.

Senator **Overton**. Yes.

Mr. **Ely**. However, the project must be paid for, and that is the point I am coming to.

Senator **Overton**. All right.

Mr. **Ely**. The project's cast will be recovered by the United States in part from the receipt of power revenues from power plants that were described this morning, and in part by the payment by farmers for water or water service. In part, presumably, the cost of the project will be charged to navigation and flood-control benefits, and those elements will not be repayable. The Reclamation Bureau has not as yet found it possible to make or publish an allocation of these various costs. That is, it is not yet known what part of the total project cost, which is now estimated to be upward of 300 millions instead of 165 millions that the State contemplated, shall be recovered out of power revenues, how much shall be written off against flood-control and associated benefits and how much must be recovered in water charges. But in any event that part of the cost of the project which is to be recovered out of water charges, the State authority feels very strongly, must have as wide and strong a foundation as possible: that is, the maximum acreage to be benefited by the project should contribute for and pay toward the accomplishment of that benefit.

In amplification of that I may say that the area which will be served by gravity water, from the Central Valley project, is receiving that water as a supplemental water supply primarily—supplemental in this sense: for years this area has been irrigated by pumping as well as by the diversion of gravity supplies coming down through some of the streams, furnished by the Colorado-Big Thompson project. The same tendency toward subdivision will probably occur with respect to those larger farms held by individuals.

On those lands in this project which are already settled and irrigated there is, therefore, no practical need for establishing the size of farm units and protecting settlers against the dangers of land speculation. The proposed legislative exemption will save the Government, the conservancy district, and the supplemental water users considerable legal and administrative expense.

You may wish to have the whole report included in your record. I shall not take your time.

Senator OVERTON. I do not think that will be necessary.

Mr. ELY. As to the Central Valley project, one added complication is the fact that the pumping by the landowners generally is by means of electricity which is purchased from various sources but primarily from the lines of the Pacific Gas & Electric Corporation. The Central Valley project itself will develop very large quantities of power, and the plan contemplated by the State and that being carried out by the Reclamation Bureau calls for the realization of the widest possible benefit from that power, both its financial contribution to the cost of the project and its general utilization at as low cost as is economic. The very interesting questions arises whether the Government, if it refuses to serve water to landholdings in excess of 160 acres, shall refuse to serve power to pump the water to serve the excess lands.

Senator OVERTON. If the Government refuses to give these large landowners power, will they still be able to get power from private sources, or will the Government-owned lines drive out privately owned lines?

Mr. ELY. Presumably the farmer who might be denied power—I am not saying the Government would refuse power. It is an interesting question.

Senator OVERTON. Well, I am assuming it does.

Mr. ELY. But if he were refused power from the Government lines, he presumably would buy from the Pacific Gas & Electric Co. and thereby to that extent, perhaps a small extent, defeat one of the purposes of the project, which is to get a wide market for project power.

Senator OVERTON. It could not occur, could it, that the operation of power lines by the Government would drive the private utility lines out of that area?

Mr. ELY. That is a problem that I cannot foretell the answer to.

In summarizing: There has been no application of the excess land provision in projects involving supplemental water supplies as distinguished from projects involving development of raw land, Federal land, that has been called to attention here, and I know of no successful answer that has been found to that problem. If no action were taken at all as to Central Valley, I imagine that the course would be exactly as it has been on the Salt River project and in Imperial Valley: that the law would remain on the books, the prohibition of delivery of water to holdings in excess of 160 acres, and that somehow the lands now under cultivation would continue to be cultivated. In those projects the holdings in excess of 160 acres have not been prevented from coming into the districts. If they were prevented here, the loss through nonparticipation would fall upon those who do participate. If they were permitted to come into the districts, the law would simply have to be ignored, as it has been ignored on these other supplemental water projects.

To us it appears that the law as it stands is not properly applicable and was really never intended to be applicable to this type of project, and that there is no particular virtue in leaving on the books as a threat and indeterminate sort of mortgage or lien this inapplicable provision, floating over the heads of all the landowners in the project. We think it is just as reasonable—more so—to repeal the 160-acre provision; and if general legislation is then worked out to acquire these large holdings and resell them to veterans, well and good, but it need not be done under the pressure of the 160-acre limitation. It is not a fair limitation, as the authority's resolution points out, as applied to this project.

Senator OVERTON. I think there is a great deal in what you say, and I want to congratulate you on your very intelligent presentation of this question. It seems to me, however, whatever we may do here, whether we retain the Elliott amendment or whether we eliminate it, that future legislation will be required, because if we retain the Elliott amendment there will have to be some modification of it, I would think; and if we exclude the Elliott amendment then there will still have to be some legislation, because the situation in that valley is different, as you have pointed out, from the ordinary run of reclamation projects, and for the reasons that you have given.

We thank you very much indeed.

Mr. ELY. Thank you, Mr. Chairman. I desire to include in the record at this point (1) a statement by Executive Officer Edward Hyatt, (2) a summary prepared by the authority's staff, and (3) a resolution of the Joint Committee on Water Problems of the California Legislature.

Senator OVERTON. Any questions? (No response.)

Now, I think that is all the witnesses that are now available to the proponents, and we shall meet tomorrow morning at 10:30. We stand recessed until then.

(The following was presented for the record:)

THE FEDERAL RECLAMATION ACT OF 1902

Mr. HARRIS. Mr. President, I would like to call to the attention of Senators a recent federal court ruling of historic significance to this Nation. The ruling last week by Judge Murray, in the United States District Court for the Southern District of California, upheld a statutory requirement of the Federal Reclamation Act of 1902 which has never been enforced. The requirement states that absentee landowners are not entitled to receive federally irrigated water. The purpose of the Reclamation Act of 1902—which also includes a provision limiting federally irrigated landholdings of 160 acres, or 320 acres in the case of man and wife—was to assure that the benefits of federal irrigation projects, paid for by the taxpayer, would accrue to economically viable homesteaders rather than land speculators or monopolists.

Unfortunately, because of corporate evasion and Government nonenforcement of this law, millions of acres of the richest agricultural land in this country are now held illegally by large landowners in the West. The effect of Judge Murray's decision, if upheld, would be to break up the holdings of the large corporations which comprise almost two-thirds of the irrigational farmland in California's Imperial Valley. The Imperial Valley, with half a million acres of crops worth $250 million a year, is now the home of such corporate giants—with holdings of up to 12,000 acres—as United Fruit, Dow Chemical, Purex, Tenneco, and the Irvine Land Co.

Mr. President, it is long past the time to end the billion dollar water subsidies these giant corporations are receiving in violation of the law and at the expense of the independent farmer who is getting squeezed off the land. Judge Murray's decision is a welcome one for those of us who stand against the monopoly of our land and water by a few giant corporations and who stand for the rights of America's independent family farmers.

Mr. President, Judge Murray's decision probably will be appealed. We must therefore ask, Will this administration stand on the side of the large corporate interests or for the small homesteader? The administration's past record on this subject leaves me with little reason to believe the small farmer will receive adequate support. Already the Nixon administration and the Justice Department have decided not to appeal an earlier court decision involving the Federal Reclamation Act which favored the large landowners. In that decision, Judge Howard Turrentine, a Nixon appointee, ruled that the 160-acre provisions of the 1902 law do not apply to the Imperial Valley area in California.

Mr. President, the Justice Department never explained publicly why it failed to appeal Judge Turrentine's decision. Mr. Peter Barnes, the west coast editor of the New Republic magazine, wrote an extremely interesting article on this subject in which he mentions the Justice Department's inaction. A concerned reader of the New Republic, Mrs. Stephen Stover, wrote Solicitor General Griswold to find out why there has been no appeal. The Solicitor General's response to Mrs. Stover is very revealing.

His letter states, for the first time to my knowledge, the reasons for the Government's inaction, which meant, in effect, a decision that the Government, and small farmers, "should not win" the case. Mr. President, I ask unanimous consent to have inserted in the RECORD at the conclusion of my remarks a copy of Mr. Barnes' article in the New Republic, entitled "Water, Water for the Wealthy," a copy of the Justice Department's press release concerning its decision not to appeal the decision, and a copy of the Solicitor General's explanation to Mrs. Stover of the Department's decision. I also have, to be printed in the RECORD, a copy of a letter to the Solicitor General from Prof. Joseph L. Sax of the University of Michigan Law School in which he challenges the Solicitor General's explanation of the Jusitce Department's decision. Professor Sax is perhaps the Nation's leading expert on water law.

Mr. President, it is inconceivable to me that this "law and order" administration would fail to enforce the 1902 reclamation law, and then fail to appeal a Federal court decision on the law when that decision favored large corporate landowners. Yet that is what has happened, Mr. President. And now we are faced with the distinct possibility that, unless the Congress speaks out clearly in support of America's family farmers, this administration will appeal a related case which rules against the large landowners. It is no wonder that small farmers are dissatisfied with the Nixon administration; it is apparent that their sympathies lie with the corporate giants that are driving small farmers off the land.

Mr. President, I introduced, with Senators Bayh, Cranston, and Hart, a bill which would enforce the congressional intent respecting the Federal Reclamation Act of 1902. Now more than ever I think a bill such as this is needed. I ask unanimous consent to have it printed in the Record again with a copy of my remarks when I introduced it. I urge Senators to give it their careful consideration, and I invite their cosponsorship.

I also ask unanimous consent to have printed in the Record a copy of Judge Murray's decision upholding the residency requirement of the 1902 law.

There being no objection, the items were ordered to be printed in the Record, as follows:

[From the New Republic magazine, May 3, 1971]

WATER, WATER FOR THE WEALTHY

Not far to the east of the summer White House at San Clemente lies one of the most miraculous deserts in America, California's Imperial Valley. It's large (about 1¼ times the size of Rhode Island), hot (temperatures of 120° are not uncommon in mid-summer), dry (total annual rainfall is barely three inches) and flat. It is also one of the richest agricultural areas in the world, producing $250 million annually of cotton, sugar beets, lettuce, alfalfa and other crops. What makes the Imperial Valley rich is water from the Colorado river, water brought through a network of dams and canals built by the federal government in the 1930s and '40s. Thanks to the imported water, what was once barren is now a grower's paradise, producing two or three crops a year.

This spectacular reclamation of desert wastelands would be an unblemished tribute to American enterprise were it not for an important fact: the beneficiaries are a small group of wealthy growers who hold most of their land illegally. Back in 1902, when Congress passed the Reclamation Act, it sought to assure that the benefits of federal irrigation projects would accrue to small homesteaders, not to land speculators or the holders of vast estates. The law stated unequivocally that landowners could receive federal water only for farms of 160 acres or less, and that in order to receive this water they had to live on, or very near, their land. In 1926 Congress strengthened the 1902 Act by providing that landholders owning more than 160 acres had to sell their excess land, at preirrigation prices, before they could receive federal water.

The railroads, land speculators and big ranchers have always opposed the Reclamation Act's anti-monopoly provisions, have never been able to persuade Congress to repeal them, and they've successfully got around them. Techniques of evasion have varied from region to region. Imperial Valley growers did it by persuading Herbert Hoover's Secretary of the Interior, Ray Lyman Wilbur, to sign a letter in 1933—days before the Roosevelt administration took over—expressing his opinion that the Imperial Valley was exempt from the 160-acre limitation. Wilbur's last-minute ruling was elicited by one of his aides through a typical special-interest ploy: the aide, who shortly thereafter became a paid consultant to Imperial Valley landowners, convinced Wilbur to sign the latter without consulting the Interior Department's chief legal officer, who believed in enforcing the 160-acre limitation.

Wilbur's letter was merely an informed opinion, but it achieved the desired effect. Using the letter as its rationale, the Imperial Irrigation District (which distributes water and electric power in the Valley) for three decades bestowed its bounty upon the owners of all sizes and shapes, never forcing any one to sell his excess holdings. Today more than half the irrigated acreage in the Imperial Valley is held by owners of more than 500 acres and two-thirds of it by absentees. Some of the holdings are as large as 10,000 acres, several belong to such agribusiness giants as Purex, United Fruit and the Irvene Land Company.

This concentration of rich, federally irrigated lands in the hands of a relatively few large landowners not only flies in the face of congressional enactments, it opens their landowners' bank accounts to vast unearned windfalls, all courtesy of the federal government and the taxpayer. The amount of subsidies that accrue to the Valley, landowners is dazzling. First is the water subsidy, Hoover Dam, completed in 1935, and $475 million; the All-American Canal, which carries water from the Colorado to the Valley cost $30 million. Part of this mammoth investment comes out of the general revenues; the remainder is almost entirely paid by electric power consumers in Los Angeles and other southern California cities.

Second is the labor subsidy. Between 1963 and 1964, millions of *braceros* toil in the Imperial Valley at wages lower than any others paid in America. Today thousands of Mexicans stream across the barrier each morning with blue or pink permit cards, compliments of the U.S. Labor Department. Their presence impedes the efforts to unionize farmworkers and keep field wages below two dollars an hour.

Then there's the agricultural subsidy. The same federal government that spends millions to make the Imperial Valley arable pays millions to landowners not to grow crops. Thus, 500 large growers receive $11 million annually in farm subsidies, while 10,000 landless residents of the Valley must eke out an existence on walfare payments totaling less than $3 million.

By far the largest windfall is in the form of land appreciation. Irrigated land in the Imperial Valley is worth, conservatively $700 an acre more than the same land would be worth without water. A landowner with 2,000 acres thus gets a $1.4-million bonanza from the federal government, merely because his land is in the right place. The land appreciation in the Imperial Valley attributable to the taxpayers' munificence exceeds a quarter of a billion dollars.

In short, it's quite a bubble: landowners in a once-desolate dust bowl reaping millions at the public's expense on acreage they never should have been allowed to hold in the first place. But it has been a precarious bubble, resting on the thin edge of nonenforcement of the Reclamation Act, and for a few brief years it appeared that the bubble might burst. In 1964 Interior Secretary Stewart Udall declared that Wilbur's letter was a mistake, and that the Interior Department would enforce the 160-acre limitation in the Imperial Valley. The large landowners were summoned. Political pressures were brought, but to no avail at the time. So the Imperial Irrigation District stalled; it refused to require growers to sell their excess land. The Interior Department could have cut off the district's spigot; it chose instead to seek a court order compelling the district to apply the law. The case dragged on for years. Last January a Nixon-appointed federal district judge in San Diego ruled in favor of the large landowners; he upheld Wilbur's letter and rejected Udall's reversal. At that point the issue became political: would the Nixon Administration appeal the district judge's decision—a decision involving a vital principle of agrarian democracy, millions of the taxpayers' dollars, and the important question of whether executive department heads can blithely evade congressional policy? Or would the Administration, as the large landowners urged, allow the lower court decision to stand unchallenged?

Politically the landowners now had some powerfully placed friends: Governor Ronald Reagan, who strongly opposes acreage limit enforcement; Democratic Senator John V. Tunney, who supported the landowners' interest when he was a congressman from the Imperial Valley and continues to do so as a senator; Rep. Victor Veysey, the Republican who succeeded Tunney in the House; and not least of all, Richard M. Nixon, who assured Imperial Valley growers in 1949 when he ran for the Senate against Helen Gahagan Douglas that he would fight against acreage limitation.

Arrayed against this constellation of power, the small farmers and landless residents of the Imperial Valley—not to mention the hardpressed federal taxpayers—didn't have much of a chance. The California AFL-CIO, the National Farmers Union and a few other organizations urged appeal of the district court decision, but these are not the voices Nixon listens to. When it became apparent that the Administration would permit the lower court judgment to stand, 123 landless persons in the Valley, mostly Mexican-American farmworkers, sought to carry on the appeal themselves. The same judge who originally ruled in favor of the landowners turned them down on the grounds that because they were too poor to own land, they had no interest in the case. Finally, the 60-day period for filing an appeal expired.

Who in the Administration made the decision to preserve the Imperial Valley bubble, and why? Interior Department Solicitor Mitchell Melich says his department—with the approval of Secretary Rogers Morton—recommended that no appeal be taken because "we agree with the Wilbur letter." Anyway, the Wilbur letter had been sanctified by 30 years of administrative practice; it was unfair for Udall to change the ground rules so late in the game, even if the ground rules were illegal (which Melich insisted they were not). Over in the Justice Department, which apparently made the final decision not to appeal, officials have been more evasive. Solicitor General Erwin Griswold took responsibility for the decision, but refused to talk to the press about it. Other Justice Department lawyers involved in the case also refused to talk; they referred all inquiries to a public information spokesman, who of course had nothing to say.

The Administration's action—or rather conscious inaction—means that subsidized water, subsidized labor and subsidized crops in the Imperial Valley will continue to be monopolized by a few wealthy landowners. Moreover, the market value of their land will rise now that the threat of acreage limitation has been lifted, and small farmers, who have a hard enough time keeping up with the leviathans, will be squeezed even more. Had the growers been required to sell their land in excess of 160 acres at prewater prices, the appreciation brought about by federal expenditures might have accrued to some of th less affluent residents of the Valley, and to the public itself.

Nixon's inaction will also cause million-dollar ripples outside the Imperial Valley. The San Diego decision against the 160-acre limitation now stands as a legal precedent; growers and speculators in other reclamation areas will use it to protect what they're already accumulated and to get their hands on larger holdings of both land and water. The Irvine Land Company, for example, which holds 10,000 acres in the Imperial Valley, owns 130 square miles in Orange County, an area that also relies on imported Colorado river water. Enforcement of the 160-acre limitation or the residency requirement would instantly wipe out the speculative gains of the Irvine Company, the Southern Pacific Railroad, Standard Oil of California, Tenneco and dozens of other giant landholders in the West. The Justice Department says that its decision not to pursue the Imperial Valley appeal has no bearing on these other vast holdings. Clearly, though, it does. It means that none of these enormous land profiteers need worry as long as Richard Nixon is in the White House.

PETER BARNES.

DEPARTMENT OF JUSTICE

Solicitor General Erwin N. Griswold announced today that the Department of Justice will not appeal a U.S. District Court decision holding that land limitation provisions of reclamation law do not apply to privately owned lands in the Imperial Valley irrigation district of southern California.

Judge Howard B. Turrentine of San Diego issued the ruling on January 5, 1971, in the Justice Deartment's 1967 suit against the Imperial Irrigation District.

The deadline for appealing the decision to the U.S. Court of Appeals for the Ninth Circuit was tomorrow. The Department of the Interior has recommended against an appeal.

In making his determination, Solicitor General Griswold stressed that his decision related only to the situation in the Imperial Valley.

"The decision does not in any way affect the Government's position with respect to reclamation projects in other areas where different facts are involved," he said.

At the request of the Interior Department, the Justice Department had filed the civil suit seeking a declaratory judgment that the 160-acre limitation applied to private land holdings in the Imperial Irrigation District.

OFFICE OF THE SOLICITOR GENERAL,
Washington, D.C., June 1, 1971.

MRS. STEPHEN L. STOVER,
Manhattan, Kans.

DEAR MRS. STOVER: Your letter of May 28 has reached me this morning. Until it came, I had not seen the article in the New Republic. Yo uare the first one who has brought it to my attention. I have now located a copy of the issue of the New Republic for May8, 191, and have read the article with interest.

As so often happens in these matters, it is a one sided presentation of a rather complicated situation. You would not know from the article, for example, that the project for the irrigation of the Imperial Valley was started about 1900 and was virtually completed by 1920, without any participation by the federal government. It was an expensive project, and it was natural that there were large land holdings there.

When the Imperial Valley was developed, the water from the Colorado River was brought in by a canal which ran for a number of miles through Mexico. This led to a number of problems. About 1930, in connection with the development of Boulder Dam, a new All-American Canal was built. This was entirely in the

United States, and was undoubtedly an advantage for the Valley. However, the All-American Canal did not result in the declamation of a single acre of desert land. After the All-American Canal was completed, there was no more land in cultivation in the Imperial Valley than there had been for many years before.

It is true that there is a provision in the reclamation laws which provides that when land is reclaimed through a federal project, land holdings cannot exceed 160 acres. However, as I have indicated, no land was reclaimed by the construction of the All-American Canal. It is, thus, a real question as to whether the acreage limitation provisions of reclamation laws is applicable to the Imperial Valley.

This question was considered and determined by the Secretary of the Interior, Lyman Wilbur (previously President of Stanford University) in 1933, now more than 33 years ago. That determination was acted on, and relied on, for many years, and no question was seriously raised about it until about 30 years after Secretary Wilbur's decision.

Recently, the issue was submitted to a court, and the court decided that the acreage limitation does not apply to Imperial Valley. It then became my responsibility to determine whether an appeal should be taken from that decision. I considered the matter carefully and thoroughly, and over a considerable period of time. As a result of my consideration, I became convinced that (a) we should not with the case in court of appeals and (b) we should not win it. In this situation, I came to the conclusion that it was my duty as a responsible officer of the government not to authorize an appeal.

In making that decision, I issued a statement saying that my determination was applicable to the Imperial Valley only, as that was the only place that had this kind of a history. The statement by Peter Barnes in this article to the contrary is entirely without foundation. As I have indicated my determination with respect to the Imperial Valley (and Secretary Wilbur's determination 38 years ago) was based on the fact that the Imperial Valley was fully developed well before any federal money was spent to build the All-American Canal. The federal government did not reclaim any land in the Imperial Valley. Thus, the determination with respect to the Imperial Valley has no application to other projects where there was only reclamation of land as a result of the project.

Very truly yours,

ERWIN N. GRISWOLD,
Solicitor General.

SEPTEMBER 1, 1971.

Hon. ERWIN N. GRISWOLD,
Solicitor General of the United States, U.S. Department of Justice,
Washington, D.C.

DEAR GENERAL GRISWOLD: Someone sent me a copy of a letter that went out under your signature, dated June 1, 1971, to Mrs. Stephen L. Stover of Manhattan, Kansas. That letter inquired about the position of the Justice Department in the excess land case involving the Imperial Valley in California.

As one who has written about the Reclamation Law, I was surprised to see in your letter the following:

". . . there is a provision in the reclamation laws which provide that when land is reclaimed through a federal project, land holdings cannot exceed 160 acres . . . no land was reclaimed by the construction of the All-American Canal."

Occasionally one recalls the warnings he received in law school, among them the danger in paraphrasing statutory language. My recollection is that the excess land provision of the Reclamation Law, 43 U.S.C. Section 431, says:

No right to the use of water for land in private ownership shall be sold for a tract exceeding 160 acres to any one land owner.

I recall no general provision in the law that limits the excess land law to land "reclaimed through a federal project," and if you examine the legislative history of the statute, you will recall that Representative Newlands, the sponsor of the Act, took no such view. 36 Cong. Rec. 6734 (1902). Of course a great many reclamation projects involve the supply of supplementary water to land already in cultivation. To the best of my knowledge it has never been thought that this fact exempted the project from the provision of the excess land law.

I recognize that the Imperial Valley case was a complex one and I think Mrs. Stover was entitled to a more intimate explanation.

Very truly yours,

JOSEPH L. SAX,
Professor of Law.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

(92d Congress, 1st session)

By Mr. HARRIS (for himself, Mr. BAYH, Mr. CRANSTON, and Mr. HART): S. 2863. A bill to provide for the creation of an Authority to be known as the Reclamation Lands Authority to carry out the congressional intent respecting the excess land provisions of the Federal Reclamation Act of June 17, 1902. Referred to the Committee on Interior and Insular Affairs.

THE RECLAMATION LANDS AUTHORITY ACT

Mr. HARRIS. Mr. President, I send to the desk for appropriate reference, for myself and Mr. BAYH, Mr. CRANSTON, and Mr. HART, a bill designed to carry out the congressional intent respecting the excess land provisions of the Federal Reclamation Act of June 17, 1902.

Our predecessors in Congress, recognizing that irrigation is essential to American agriculture, wisely chose to make a public investment in irrigation when they passed this historic 1902 act. Just as wisely, they sought to assure that the benefits of Federal Irrigation projects—which would literally transform desert wastelands in the West into the richest agricultural areas in the world—would accrue to small homesteaders rather than land speculators or monopolists. The Reclamation Act stated that landholders could receive federally subsidized water for farms of 160 acres or less, or 320 acres in the case of a man and wife provided that they live on, or very near, their land. In 1926, Congress strengthened the 1902 act by providing that any federally irrigated holdings in excess of the 160-acre limitation had to be sold within 10 years at preirrigation prices.

Critics of the acreage limitation provision, both in 1902 and today, insist that huge farms are necessary for their efficiency. That is a myth. The giant agribusinesses are efficient only in stiffling farm competition and in tapping the Federal Treasury for subsidies. One hundred and sixty acres of prime irrigated farmland, or 320 acres in the case of man and wife, are more than enough to support a prosperous family farm.

Mr. President, the men who championed the Federal Reclamation Act of 1902 were visionary Americans. They understood that land and water, America's greatest resources, were not boundaries, and that they must be protected from the few who would monopolize their use.

Delegates to the irrigation Congress in the 1890's, which sought to enlist the Federal Government in irrigation projects, repeated a warning given to Americans by the English historian T. B. Macaulay:

> Your national safeguard lies in your boundaries public domain . . . But the time will come when this heritage will have been consumed, this safeguard will have vanished. You will have your crowded Birminghams and Manchesters, and then will come the test of your institutions.

Congressman Oscar W. Underwood of Alabama, who was instrumental in the passage of the Reclamation Act sounded this same theme when he pointed to the decline of free land and the beginning of urbanization. In a statement supporting the Reclamation Act, which has a pecularly modern ring, he said to the applause of the House of Representatives:

> The farm boys in the East want farms of their own. It (the Reclamation Act) gives them a place where they can go and build homes without being driven into the already overcrowded cities to seek employment.
>
> It will provide a place for the mechanic and wage-earner to go when the battle for their daily wages becomes too strenuous in the overcrowded portions of the East. . . . If this policy is not undertaken now, this great Western desert will ultimately be acquired by individuals and great corporations. . .
>
> I believe the passage of this bill is in the interest of the man who earns his bread by his daily toil. It gives him a place where he can go and be free and independent; it gives him an opportunity to be an owner of the soil and to build a home. These are the class of men we must rely on for the safety of the nation. In times of peace they pay the taxes and maintain the Government; in times of peril and strife they are the bulwark of the nation, and it is justice to them that this legislation be enacted into law.

And President Theodore Roosevelt, who signed the Reclamation Act into law and insisted upon its 100-acre provision, said:

> We have a right to dispose of the land with a proviso as to the use of the water running over it, designed to secure that use for the people as a whole and to prevent it from ever being absorbed by a small monopoly.

Mr. President, those men were fighting to carry out the Jeffersonian vision of agrarian democracy. They wanted to see an America peopled by prosperous and independent men, free of the control of the baronial landed classes.

Today, nearly two centuries after Jefferson and 70 years after the passage of the Federal Reclamation Act, agrarian democracy exists only as a myth. America's land, once publicly owned, and the federally financed water used to irrigate much of it, are illegally in the control of large land interests.

Not surprisingly, Mr. President, the large land interests in this country have always opposed the Reclamation Act's antimonopoly provisions. The railroads, land speculators, and giant agribusinesses have employed various strategies to get around the 160-acre limitation. What is surprising is the Federal Government's acquiescence in what amounts to a giant land steal and a raid on the public treasury.

Federal reclamation has delivered water to 8 million acres with an annual crop value of $1.7 billion. Congress has appropriated or authorized spending $10 billion on reclamation projects. The amount of the subsidy to Western landowners for irrigation has been estimated to range from $600 to $2,000 per acre.

This money, supplied by the average taxpayer, is buying water for hundreds of thousands of acres of land owned by giant corporations while independent family farmers have not been able to get access to irrigated land. California—the home of the giant agribusinesses—provides a typical example of where the taxpayer's money is being spent. California's Imperial Valley produces about $250 million annually of cotton, sugar beets, lettuce, alfalfa, and other crops. What makes the Imperial Valley so fertile and productive is water brought from the Colorado River by a network of dams and canals built by the Federal Government at a cost of over $200 million.

Because of the Government's outrageous record of nonenforcement of the Reclamation Act, more than half of the irrigated acreage in the Imperial Valley is held by owners of more than 160 acres, and two-thirds of it by absentees. Agribusiness grants such as Purex, United Fruit, and the Irvine Land Co., which owns 10,000 acres in the valley, are reaping huge profits because of the water subsidy. Federally subsidized water is also being delivered to lands in California owned by Tenneco Getty Oil, Standard Oil of California, and the Southern Pacific Railroad.

The record elsewhere is no better. In the Pacific Northwest, federally dammed water from the Columbia River will soon flow to the vast lands held by Boeing Aircraft, Burlington Northern, Utah and Idaho Sugar, and Amfac of Hawaii.

Increasingly, the giant agribusinesses are taking control of American agriculture, and they leave no room on the land for the independent, family farmers who have been disappearing from rural America at the rate of 800,000 a year.

I do not think the Congress of the United States ever intended to subsidize Boeing Aircraft or Standard Oil in their farming ventures. I certainly hope not.

Mr. President, it is time to put and end to this outrage. At a time when 70 percent of our people are packed onto less than 2 percent of the land, when our cities are on the verge of collapse because of the overcrowding, unemployment and welfare, it is essential that we give people a chance to make a living in rural America. But America has no national rural policy for people. Instead, we have allowed vested economic interests, guided by nothing nobler than groups, to determine the future shape of this Nation.

The bill I am introducing today, the Reclamation Lands Authority Act, could be the beginning of a national rural policy. The emphasis of that policy is to serve people and the public interest, not a few large corporations.

The bill, which has been introduced in the House of Representatives by several California Congressmen, requires the Federal Government to buy "excess" land at a preproject market price and to lease or sell it at a postproject market price. This mechanism is greatly preferable to a simple enforcement of the 1902 law. For in that case those purchasing the land at the preirrigation prices called for in the law could receive the enormous windfall now in the hands of the giant corporations.

The American taxpayer has built and paid for the irrigation system that has made our land in the West so valuable. Therefore, he should reap at least part of the gains.

The profits from the sale, lease, or use of these lands are to be placed in an education, conservation, and ecnomic opportunity fund. Seventy percent of the revenues from the fund are to be earmarked as grants for public education, following our historic heritage of financing education with land grants. Ten percent of the funds will go into the already existing land and water conservation fund. The remaining 20 percent of the fund shall be made available upon specific appropriation by Congress for the development of public facilities serving project areas, for promoting economic opportunities of veterans and persons living in substandard conditions and for such environmental and ecological benefits as Congress may authorize.

To administer this program, the bill creates a Reclamation Lands Authority as an independent agency under a board of three members, appointed by and responsible to the President.

The Authority is empowered to determine the uses for which purchased excess lands may be sold, leased or made available for public purposes, and is charged with attaching such conditions to any use of the land "as will preserve open spaces and agricultural greenbelts and into her respects preserve an environment of beauty, health and attractive quality for now and for the future."

The Authority is also charged with encouraging "effective regional, State and local planning of land usage and environmental adjustment in the areas where excess lands are located."

Mr. President, the Reclamation Lands Act provides the chance for us to rekindle the spirit that made America the land of opportunity. This bill would give the independent family farmer, the veteran, and the economically disadvantaged from both our cities and rural areas a chance to start all over again. It would enable us to finance public education—the strength of any free society—with funds created by public water and land development. And it would mark the day when Americans realize that our limited land and water resources cannot be left in the hands of big business.

I would hope that each of my colleagues will give this proposal the serious consideration it merits, and I welcome their cosponsorship of it. Furthermore, I would hope that the Interior Committee will be able to hold hearings on this proposal in the near future.

Mr. President, I ask unanimous consent that at this point the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2863

A BILL to provide for the creation of an Authority to be known as the Reclamation Lands Authority to carry out the congressional intent respecting the excess lands provisions of the Federal Reclamation Act of June 17, 1902

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as "The Reclamation Lands Authority Act".

STATEMENT OF PURPOSE

SEC. 2. (a) The Congress declares that it shall be the purpose of this Act to reaffirm the historic purpose of the Federal Reclamation Act, especially as it applies to the development and use of excess lands, and to make that intent and purpose operative in the national interest and the direct benefit of its citizens.

(b) The Congress further declares that it shall be the purpose of this Act to make such disposal and uses of these excess lands as will improve the environment of the Nation through the use of these natural resources to provide resident ownership and operation of family-sized farms, to open new opportunities for veterans and to create open spaces, protect the natural beauty and quality of the habitat of all living things within Federal reclamation project areas, and to provide by the application of the net revenues from the sale or lease of said excess irrigated or irrigable lands to the demonstrated needs of public education and community development, and for other purposes consistent with the historic purpose of the Federal reclamation law.

SEC. 3. To effect these expressed purposes and others which may become imperative as the Nation faces its responsibilities and opportunities to create a healthful environment consistent with the ecological needs of the land entrusted to our care, there is hereby created by a body corporate to administer the excess lands resulting from the enforcement of the provisions of the Federal Reclamation Act of June 17, 1902 (32 Stat. 380) as amended and supplemented, to be designated as the Reclamation Lands Authority (hereinafter referred to as the "Authority").

SEC. 4. To administer the purposes expressed in this Act and enforce the laws pertaining to excess land as prescribed in the Federal Reclamation Act of June 17, 1902 (32 Stat. 333), as amended and supplemented, the Authority shall be an independent agency responsible to the President, and subject to all laws pertaining to accountability and report. It shall be directed and its activities managed by a Board of three members, appointed by the President by and with the consent of the United States Senate. Their terms shall be staggered, in such a manner as to provide an eight-year term for the designated Chairman, a five-year term for one member, and a three-year term for the other member. They may be reappointed. Their salaries shall be fixed by the President in keeping with the accepted schedule of remuneration for heads of important Government agencies The Board shall organize itself and its operations, shall select its officials, agents, and employees in keeping with Civil Service standards and practices and said employees shall be included in the Federal roster to share in all legal benefits of Federal Government employment and to be subject to such requirements as to ability and conduct as are thereby prescribed.

SEC. 5. The principal place of business of the Authority shall be located at a place of accessibility within the region of excess lands which it administers.

SEC. 6. Immediately upon the passage of this Act into law, the Authority shall be provided by the Department of the Interior a listing of all irrigated and irrigable lands administered under reclamation laws, denoting specific compliances and failure to comply, declaring noncompliance as excess lands to which all titles, claims, access, entry, and control shall transfer to the Authority forthwith, to be sold, leased, or managed according to the determination and within the purpose of the Act. Such a listing and transfer of lands subject to reclamation law shall be provided the Authority at six-month intervals.

SEC. 7. The Board of Directors of the Authority shall have power and it is hereby conferred upon it, to adopt and enforce all the necessary bylaws, orders, rules and regulations required to effectuate the will of Congress as expressed in this Act.

SEC. 8. The Authority shall have such powers as are conferred on Government corporations generally, and specifically shall have the power of eminent domain. Except as otherwise specifically provided in this Act, the Authority—

(a) shall have succession to its corporate name;

(b) may sue and be sued in its corporate name;

(c) may adopt and use a corporate seal, which shall be judicially noticed:

(d) may make contracts and enter into agreements as herein authorized;

(e) may adopt, amend, and repeal bylaws or provisions thereof; and

(f) may purchase, lease, or accept, hold and use such real and personal property as it deems necessary or convenient in the transaction of its duly authorized business, and may dispose of any property, real or personal, to which it has title according to its authority under this Act.

SEC. 9. In the development of its purpose and the exercise of its duties, the Board of Directors shall select a treasurer and as many assistant treasurers as it deems proper. Board members and treasurers shall be bonded, giving such bonds for the safekeeping of the securities and moneys entrusted as are required by law, and in the case of subordinate officials as the Board shall determine.

SEC. 10. Any member of the Board may be removed from office at any time by the passage of a concurrent resolution of the Senate and House of Representatives, said concurrent resolution stating in specific terms the reason for such action.

SEC. 11. The powers of eminent domain residing in the Board by this Act shall extend to the purchase of any real estate or acquisition of real estate by condemnation proceedings, the title to such real estate being taken in the name of the United States of America, and thereon all such real estate shall be entrusted to the Authority as the agent of the United States to accomplish the purposes of this Act.

SEC. 12. There is hereby conferred upon the Authority all of the powers now residing in the Secretary of the Interior to enforce all the provisions of section 5 of the Federal Reclamation Act of June 17, 1902, section 46 of the Act of May 25, 1926, and all Acts amendatory and supplementary thereto as these apply to the limitation of size of farms to be served by and under provisions of Federal reclamation projects.

SEC. 13. The Authority is hereby authorized and directed to acquire by purchase, eminent domain proceedings, or otherwise, all excess lands in projects governed by Federal reclamation laws at preproject prices as defined in section 46 of the Act of May 25, 1926, and to deposit the proceeds from the sale or lease or use of such lands in the Treasury of the United States in a specially designed "Education, Conservation and Economic Opportunity Fund" which is hereby created to be used exclusively for the purposes of this Act.

SEC. 14. The Authority shall purchase all excess lands at preproject prices which do not reflect the benefits of the Federal financing or construction. The proceeds from the sale, lease, or use of such lands shall be paid into the "Education, Conservation, and Economic Opportunity Fund," and are to be used for the purposes of this Act and administered for said purpose by the Board.

SEC. 15. The Education, Conservation, and Opportunity Fund shall be operated as a revolving fund for the purposes of this Act. Moneys in the fund equal to the cost of lands purchased by the Authority at pre-water-project prices, together with such moneys as Congress may appropriate for deposit in the fund for the purchase and management of excess lands, shall be available to the Authority for further purchase of excess lands. Ten percent of the balance in the fund remaining thereafter shall be transferred to the Land and Water Conservation Fund already established by the Congress to be used for purposes consonant with those of this Act, and an annual accounting shall be made to the Authority by said fund and made a part of its annual report. Seventy percent of the balance in the fund available for use by designated agencies and purposes under this Act shall be made available for the benefit of public education and for such expenditures or allocations as the Congress may authorize. Such funds shall be transferred by the Authority to agencies specified by the Congress. The remaining allocable amount in the fund made available for public purposes under the Act shall be made available upon specific appropriation by the Congress for the development of public facilities serving project areas, for advancing economic opportunities of veterans and persons living in substandard conditions, for development of healthful environments and communities needing open spaces, and for such other environmental and ecological benefits as Congress may authorize to be made from the fund.

SEC. 16. The Authority shall determine the uses for which purchased excess land may be sold, leased, or made available for public purposes, and shall attach such conditions at time of sale, lease, or public use as will preserve open spaces and agricultural green-belts and in other respects preserve an environment of beauty, health, and attractive quality for now and for the future. In determining as between sale, lease, or public use of excess lands purchased, the Authority shall give due weight to benefits to the revolving fund and the advancement of economic opportunity for persons who have served the Nation in the Armed Forces, and disadvantaged citizens seeking such opportunity as ownership, lease, or use of irrigated or irrigable lands afford. In the pursuit of these purposes, the Authority shall encourage effective regional, State, and local planning of land usage and environmental adjustment in the areas where excess lands are located.

SEC. 17. In the exercise of its charter under this Act, the Authority is herewith authorized to obtain lands excess to the direct needs of other Federal agencies of the Government which may be declared available where such lands may become a unit of lands administered by this Authority. Such required lands shall be treated in the same manner as other excess lands of the Authority.

SEC. 18. The Authority may establish an Advisory Committee to which it shall appoint citizens who neither have nor represent vested interest in excess lands purchased or in the water brought to such lands. The Authority may service such an Advisory Committee and provide for the expenses thereof. Committee members shall serve without remuneration.

SEC. 19. There is hereby authorized for appropriation an amount as may be necessary from the general fund of the Treasury for deposit in the revolving fund designated as the "Education, Conservation and Economic Opportunity Fund" of this Authority, for the purposes of this Act, to be accounted for in the usual manner and to be subject to the same accounting practices as other Government agencies.

SEC. 20. There are hereby authorized to be appropriated for the purchase, lease, and use of excess lands such amounts out of the Education, Conservation and Economic Opportunity Fund as are available and needed by the Authority to carry out the intent and purposes of this Act.

[In the U.S. District Court for the Southern District of California]

Ben Yellen, et al., versus Walter J. Hickel

(Partial summary judgment No. 69-124—Murray)

Before the court is a motion for partial summary judgment. The suit was filed under 26 U.S.C.A. 1361 to compel the Secretary of the Interior and lower level officials of the Department of the Interior to enforce the residency requirement of Section 5 of the Reclamation Act of June 17, 1902, 32 Stat. 339, 43 U.S.C.A., Section 431,[1] against lands located within the Imperial Irrigation District in California which receives water from the Boulder Canyon Project through the All American Canal. It is the government's contention that Section 5 has been superseded by Section 46 of the Omnibus Adjustment Act of May 25, 1926, 44 Stat. 649, 43 U.S.C.A., Section 423c,[2] and therefore the residency requirement does not apply. For the following reasons this court finds that Section 5 is in force and the residency requirement is a prerequisite to receiving water from the Boulder Canyon Project.

The ruling on this motion is a determination made as a matter of law and does not depend upon any factual showing by the moving party beyond the allegations in the pleadings. There was a previous motion for summary judgment and that motion was denied without prejudice and therefore there is no bar to the present motion. Further the government raises the issue of standing in defense of this motion. A motion to dismiss for lack of standing to maintain a suit was denied at the same time as the previous motion for summary judgment, thus there is no need to rule on that question at this time.

The Boulder Canyon Project is authorized and governed by the Boulder Canyon Project Act of 1928, 45 Stat. 1057, et seq., 43 U.S.C.A. 617 et seq. Under Sections 12 and 14 of that Act (45 Stat. 1069 and 45 Stat. 1063) the project is governed by the June 17, 1902 Act and "Act amendatory thereof and supplemental thereto." 43 U.S.C.A., Sections 617k, 617m. The question which concerns the court is whether Section 46 of the Omnibus Adjustment Act has so changed the original 1902 Act as to eliminate the residency requirement contained therein.

The government argues that under Section 46 of the 1926 Act the Secretary no longer is authorized to sell water directly to landowners on projects built thereafter. Instead, Section 46 requires the Secretary to contract with irrigation districts for delivery of water and repayment of the project and these contracts are required to impose certain conditions to which landowners must conform.[3] Since none of these conditions include a residency requirement it is argued that the effect of Section 46 is to eliminate any residency requirement from all reclamation projects governed thereby. This argument proves to be incorrect when viewed in the light of sound statutory construction and the background and purpose behind both Section 5 and Section 46.

The government points to no specific provision of the Omnibus Adjustment Act which repeals Section 5 of the 1902 Act. Nor do they contend that the 1926 Act entirely repealed the 1902 Act. It is a general rule of statutory construction that where there are two acts on the same subject, effect should be given to both if possible. *United States* v. *Borden Co.*, 308 U.S. 188, 198. Further, repeals by implication are not favored and the intention of the legislature to repeal must be clear and manifest. Even when there is a positive repugnancy between the provisions of the new law and the old law, then the old law is repealed only *pro tanto* to the extent of the repugnancy. *U.S.* v. *Borden*, supra.

Statutory construction of Section 5 and Section 46 reveals no repugnancy whatever. Section 5 requires that there is no right to use water on tracts of any one owner of over 160 acres and no water shall be sold to anyone not occupying the land or residing in the neighborhood. Section 46 establishes a system whereby the Secretary no longer sells to individuals, but to irrigation districts instead, and provides for a situation not contemplated in the original Act where water would be supplied through the irrigation district to private landowners of more than 160 acres in addition to settlers on public lands opened up for entry under the original reclamation law. There is no inconsistency in applying the requirements of Section 5 at the same time with those of Section 46. The latter merely provides for sale of excess lands over 160 acres if the private owner wants reclamation project water. Section 5 requires that he be a resident to get water at all. A liberal reading of both statutes then reveals no implied intent on the part of Congress that the earlier statute would be repealed by Section 46.

Since both can stand by reasonable construction, that construction must be adopted. *Wilmot* v. *Mudge*, 103 U.S. 217, 221 (1881).

The plain language of the Omnibus Adjustment Act of 1926 does not repeal Section 5 of the 1902 Act, nor is any legislative intent to do so exhibited in the Act's background. The basic purpose of the 1926 Act is expressed in 43 U.S.C.A., Section 423f, 44 Stat. 65 (May 25, 1926) as follows:

"The purpose of sections 423–423g of this title is the rehabilitation of the several reclamation projects and the insuring of their future success by placing them upon a sound operative and business basis, and the Secretary of the Interior is directed to administer said sections to those ends."

The report on the House version of the bill H.R. 10429 prepared by the Committee on Irrigation and Reclamation refers to the reclamation policy of the government which was adopted as a result of the Act of June 7, 1903. The report points out that while the law had provided that the cost of projects be returned to the reclamation fund, settlers had been unable to do so in full and therefore it would be necessary to authorize the Secretary to credit the projects with losses sustained. Then the report continued:

"It is confidently believed that with the adjustment authorized herein the various projects will be put on a basis which will restore the morale and enthusiasm of the settlers and enable them to meet their payments promptly in the future. The settlers on these projects have endured great hardships, and have struggled against the most adverse conditions in their effort to cooperate with the government in reclaiming these desert wastes, and are entitled to the proposed relief which has been urged upon the committee by the Representatives from the arid land States and the Secretary of the Interior for many years." See Adjustment of Water Charges, House Report No. 617 to accompany H.R. 10429, 68th Cong. 1st Session.

It is clear from the report that the purpose of the 1926 Act was to provide relief to settlers then residing on the land. There is no indication that the Act was intended to change the policy of the reclamation law.

The government has cited Section I of the Act of August 9, 1912, 37 Stat. 265, 43 U.S.C.A. 541 as additional support to the contention that residence is no longer intended as a requirement for water rights under reclamation law. That law requires that homestead entrymen submit proof of residency, reclamation and cultivation in order to obtain a patent while purchasers of water-tight certificates need only prove cultivation and reclamation of the land for a final certificate.

This it is argued is evidence that residency has been eliminated as a requirement to receiving water. It is evident that Congress intended the Act to apply to purchasers of water rights for private lands as well as to entries of public lands. See House Committee on Irrigation of Arid Lands, Patents to Entrymen for Homesteads Upon Reclamation Projects. House Report No. 867 to accompany S. 5545, 62d Congress, 2d Session, and I Department of Interior, Federal Reclamation Laws Annotated 15 (1958). However, there is no indication that the residency requirements of Section 5 was intentionally eliminated.

In the West water and land are separate and ownership of land does not automatically give right to water use. This is reflected in the homestead laws where water rights are reserved from patents. See 43 U.S.C.A. 661 as derived from 14 Stat. 253 and 16 Stat. 218. This explains why the patent and the water certificate were treated separately in Section 1 of the 1912 Act. The patent is a right to land—ownership in land. The certificate is evidence of a right to water subject to divestment for failure of application to beneficial use. See U.S.C.A. 372, 32 Stat. 390. However, the nature of the water right is not expressly delineated in reclamation law. The water right certificate describes the land upon which the water is to be used, the amount of water use allowed and aids in establishing priorities under state laws. Neither the reference to water rights in the 1902 Act, nor that in the 1912 Act make clear just what the user has, either before or after receiving the final water rights certificate. It is important to note, however, that reclamation laws are "designed to promote federal policies of permanent importance and not merely to secure an investment interest." II Sax, Waters and Water Rights, 118 (R. Clark ed. 1967).

That land and water are separate also helps explain why each is treated differently in Section 1 of the Act of 1912. The purpose of the Act of 1912 was to enable the settler to mortgage his property prior to final payment for the amount due for the water right. See Title for Homesteaders on Reclamation Projects. Senate Report No. 608 to accompany S. 5545, 62d Congress, 2d Session. The water certificate was property right of sorts even though a defensible one. It represented an incremental value of the price of the private land and as such was an asset which added to the mortgageable value of the land. See Sax, *Selling Reclamation Water Rights: A Case Study in Federal Subsidy Policy*, 64 Mich. L. Rev. 13, 1965, for a discussion of incremental values. The cultivation and reclamation requirements of Section 1 insure good faith on the part of the owner that the arid land would be cultivated and reclaimed. This purpose of the Act in no way changes the overriding original anti-monopolistic and anti-speculative purposes of the original reclamation law. (Discussion on this purpose to follow.) Therefore, while cultivation and reclamation are required for a final water rights certificate, residency remained a requirement to receive water initially. See sample forms for water right applications in Department of Interior, Fourteenth Annual Report of the Reclamation Service, 1914–1915, 268–276, which require affidavit of residence.

It should also be pointed out that on August 10, 1917, Congress saw fit to suspend the residence requirements during World War I. See 40 Stat. 273.[5] It would be strange indeed if Congress intended to eliminate the residence requirement for receiving water by the Act of 1912, that it deemed it necessary to suspend residency in 1917. It is much more plausible that there was and is a continuing intent on the part of Congress to keep alive the anti-speculative and anti-monopolistic purposes of the Act as expressed in the residency requirement.

The government's rationale in relying on Section 1 of the 1912 Act is somewhat obscure. Their primary argument rests on Section 46 of the 1926 Act. It is difficult to understand how the 1912 Act can shed light on a policy which they argue was not expressed until the 1926 Act of Congress.

It is further argued that the elimination of the water right application by the Act of May 15, 1922, 42 Stat. 541, is an expression of intent to eliminate the residency requirements.[6] Where a legally formed irrigation district agreed to pay moneys owing the United States for construction and maintenance of the project, this statute dispensed with the requirement that individual water user file an application for water right. It is clear from the Department of Interior's Report, on S. 2118, dated May 23, 1921, to the Senate Committee on Irrigation and Reclamation of Arid Lands that the Senate bill, which later became the 1922 Act, dispensed with the water right application in order to eliminate unnecessary amounts of work and possible complications. Since one function of the application was to establish a lien for the payment of water charges on each user's land in favor of the United States, the elimination of the lien by the statute removed a basic reason for the application. Further, inasmuch as the new irrigation district is responsible to pay the United States for construction and maintenance, it would be collecting the payments from its members and controlling the distribution of water. A new applicant for water would be required to go through the district and to require an additional application to the Bureau of Reclamation could have made the process unnecessarily complex while only duplicating work which could be done by the district.

The application was used by the Bureau of Reclamation to enforce other provisions of the reclamation laws such as the residency requirement. (See Department of Interior, Land Ownership Survey of Federal Reclamation Projects 34, 35, 1946), but the 1922 Act fails to refer to residency. This failure does not lend support to any interpretation of the Act as an expression of intent to eliminate the residency requirement nor to change the national policy of the reclamation laws. There is no positive repugnancy between the 1922 Act and the residency requirement. The Secretary of Interior is given authority to dispense with the application at his discretion, but remains charged with enforcing the policy of reclamation law which is still in force. Compliance with residency, which is an expression of national policy, should have been secured by other means.[7]

On April 19, 1916, the Department of Interior issued an opinion which undercut the policy of the reclamation law:

"The residency requirement of this section (Section 5, 1902 Act) in reference to private lands is fully complied with if, at the time water-right application is made, the applicant is a bona fide resident upon the land or within the neighborhood. After approval of the application further residence is not required of August 9, 1912 (37 Stat. 265), without the necessity of proving residency at the time proof is offered." (See I Federal Reclamation Laws Annotated, page 55–56). such applicant, and further proof may therefore be made under the Act of

The government cites this opinion along with subsequent Federal Regulations and expressions of policy by the Bureau of Reclamation as evidence of elimination of the residency requirements.[8] This evidence recognizes there is a residency requirement problem, but denies that residency is a continuing requirement as an expression of national policy. The Department cannot repeal an Act of Congress.

It could be argued that re-enactment of the statute, such as was the case in Section 14 of the Boulder Canyon Project which reenacted the reclamation law, constitutes legislative acceptance of the earlier administrative interpretation. It has been held that an administrative interpretation of a statute was binding on the court where it has been impliedly upheld by re-enactment of the statute. See *Kieferdorf* v. *C.I.R.*, 142 F.2d 723. However, Congressional re-enactment of a statute, without expressed consideration or reference cannot give controlling weight to an originally erroneous administrative interpretation of the statute. *United States* v. *Missouri Pacific Railroad Company*, 278 U.S. 269, 280. The re-enactment of a specific clause or statute after administrative or judicial construction is merely one factor in the total effort to give fair meaning to the language thereof, and such circumstances must give way to plain language or basic purpose. *Fleming* v. *Moberly Milk Products Co.*, 160 F.2d 259.

The Reclamation Act of 1902 was enacted after a long history of monopoly of and speculation in the arid lands in the west. This background resulted in a national policy of anti-monopoly and anti-speculation which found expression in reclamation law. It is this policy which provides possibly the strongest rationale for holding the residency requirement in force. From its very inception reclamation policy has been to make benefits therefrom available to the largest number of people. The 1902 Act contained a 160 acre limitation, required that users be bona fide residents, required that the reclamation water right be appurtenant to the land, and provided that rights to the water be limited by beneficial use. 32 Stat. 389, 390 (1902), 43 U.S.C.A., Sections 372, 383, 481 (1964). These devices were incorporated into the bill in order to prevent land monopolization and profiteering by large corporations to the detriment of the intended beneficiaries of the Act. See Taylor *The Excess Land Law-Execution of a Public Policy*, 84 Yale L.J. 476, 484–86 (1955). The idea was to create a class of self-reliant family farmers. See Land Ownership Survey, supra, 61–73, 91.

National policy, as expressed in the reclamation laws, is to provide homes for people.[9] Homes are possible only where speculation and monopolization are not possible. The 160 acre limitation and the national policy which it reflects have been upheld by the Supreme Court in *Ivanhoe Irrigation District* v. *McCracken*, 367 U.S. 275. The residency requirement in Section 5 is a second expression of that national policy. Its repeal by implication would be contrary to the purpose for which Section 5 was enacted. Early in reclamation history events showed that "under the private projects where residence is not required, the developments have been very largely along the line of the creation of tenant farms." See Department of Interior, 11th Annual Report of the Reclamation Service 11, (1911–1912). Failure to enforce residency subverts the excess land limitation which *Ivanhoe*, supra, specifically upheld. Through the use of corporations, trusts and cotenancies flagrant violations of the purpose of this limitation are possible. Each of these farms may be used to by-pass the acreage limitation. The policy behind reclamation law to aid and encourage owner operated farms requires enforcement of the residency requirement to prevent these violations. See Sax, *The Federal Reclamation Law* in II *Waters to Water Rights*, supra, 217–224.

The fact that residency has not been required by the Department of Interior for over 55 years cannot influence the outcome of this decision.[10] Failing to apply the residency requirement is contrary to any reasonable interpretation of the reclamation law as a whole, and it is destructive of the clear purpose and intent of national reclamation policy. It is well settled that administrative practice cannot thwart the plain purpose of a valid law. *United States v. City and County of San Francisco*, 310 U.S. 16, 31–32 (1940). Rather than indicate the validity of the administrative ruling, the lapse of time serves to dramatize the unavailability of relief in the past and points toward the need for increased access to the court in the future.

The Boulder Canyon Project Act, 45 Stat. 1065, 43 U.S.C.A. Section 617m, provides that the Act shall be deemed a supplement to reclamation law which shall govern the constructive operation and management of the works authorized. Inasmuch as Section 5 of the 1902 Act has been found in full force and effect, it must be applied to the Imperial Irrigation District as well as to all reclamation projects constructed pursuant to the Boulder Canyon Project Act. No right to use the water for land in private ownership shall be sold to any landowner "unless he be an actual bona fide resident on such land, or occupant thereof residing in the neighborhood of said land. . . . 43 U.S.C.A., Section 431.

That portion of the motion for summary judgment determining the applicability of Section 5 of the Act of 1902 is therefore granted, which in effect is merely an interlocutory adjudication of the applicable law.

The posture of the case at this time is not such as the court can determine the other portions of the motion, and therefore reserves ruling thereon.

Done and dated this 22nd day of November, 1971.

FOOTNOTES

[1] Section 5 of the Reclamation Act of June 17, 1902, 32 Stat. 389, 43 U.S.C.A. 431, provides:

"That the entryman upon lands to be irrigated by such works shall, in addition to compliance with the homestead laws, reclaim at least one-half of the total irrigable area of his entry for agricultural purposes, and before receiving patent for the lands covered by his entry shall pay to the Government the charges apportioned against such tract, as provided in section 4. No right to the use of water for land in private ownership shall be sold for a tract exceeding 160 acres to any one landowner, and no such sale shall be made to any landowner unless he be an actual bona fide resident on such land, or occupant thereof residing in the neighborhood of said land, and no such rights shall permanently attach until all payments therefor are paid. The annual installments shall be paid to the receiver of the local land office of the district in which the land is situated, and a failure to make any two payments when due shall render the entry subject to cancellation, with the forfeiture of all rights under this act, as well as of any moneys already paid thereon. All moneys received from the above sources shall be paid into the reclamation fund. Registers and receivers shall be allowed the usual commissions on all moneys paid for lands entered under this act."

[2] Section 46 of the Omnibus Adjustment Act of 1926, 44 Stat. 649, 43 U.S.C.A. Section 723(c), provides:

"No water shall be delivered upon the completion of any new project or new division of a project until a contract or contracts in form approved by the Secretary of the Interior shall have been made with the irrigation district or irrigation districts organized under State law providing for payment by the district or districts of the cost of constructing, operating, and maintaining the works during the time they are in control of the United States, such cost of constructing to be repaid within such terms of years as the Secretary may find to be necessary, in any event not more than forty years from the date of public notice hereinafter referred to, and the execution of said contract or contracts shall have been confirmed by a court of competent jurisdiction. Prior to or in connection with the settlement and development of each of these projects, the Secretary of the Interior is authorized in his discretion to enter into an agreement with the proper authorities of the State or States wherein said projects or divisions are located whereby such State or States shall cooperate with the United States in promoting the settlement of the projects or divisions after completion and in the securing and selecting of settlers. Such contract or contracts with irrigation districts hereinafter referred to shall further provide that all irrigable land held in private ownership by any one owner in excess of one hundred and sixty irrigable acres shall be appraised in a manner to be prescribed by the Secretary of the Interior and the sale prices thereof fixed by the Secretary on the basis of its actual bona fide value at the date of appraisal without reference to the proposed construction of the irrigation works; and that no such excess lands so held shall receive water from any project or division if the owners thereof shall refuse to execute valid recordable contracts for the sale of such lands under terms and conditions satisfactory to the Secretary of the Interior and at prices not to exceed those fixed by the Secretary of the Interior; and that until one-half the construction charges against said lands shall have been fully paid no sale of any such lands shall carry the right to receive water unless and until the purchase price involved in such sales is approved by the Secretary of the Interior and that upon proof of fraudulent representation as to the true consideration involved in such sales the Secretary of the Interior is authorized to cancel the water right attaching to the land involved in such fraudulent sales: *Provided further*, That the operation and maintenance charges on account of lands in said projects and divisions shall be paid annually in advance not later than March 1. It shall be the duty of the Secretary of the Interior to give public notice when water is actually available, and the operation and maintenance charges payable to the United States for the first year after such public notice shall be transferred to and paid as a part of the construction payment."

[3] Section 46 provides that the following conditions which affect individual users be included in contracts with irrigation districts: (a) excess land over 160 acres shall be appraised and the sale price fixed by the Secretary; (b) no excess land shall receive water unless owners contract to sell the land at or below the contract price; (c) until one-half the construction charges have been paid no water right passes with the sale until the sale is approved by the Secretary.

[4] Section 1 of 37 Stat. 265, 43 U.S.C.A. 541, provides:

"Any homestead entryman under the Act of June 17, 1902, known as the reclamation Act, including entrymen on ceded Indian lands, may, at any time after having complied with the provisions of law applicable to such lands as to residence, reclamation and cultivation, submit proof of such residence, reclamation and cultivation, which proof, if found regular and satisfactory, shall entitle the entryman to a patent, and all purchasers of water-right certificates on reclamation projects shall be entitled to a final water-right certificate upon proof of the cultivation and reclamation of the land to which the certificate applies, to the extent required by the reclamation Act for homestead entrymen: *Provided*, That no such patent or final water-right certificate shall issue until after the payment of all sums due the United States on account of such land or water-right at the time of the submission of proof entitling the homestead or desert-land entryman to such patent or the purchaser to such final water-right certificate."

[5] The Act of August 10, 1917, 40 Stat. 273, provides in part:

"Sec. 11 (Suspension of residence requirements.)—That the Secretary of the Interior is hereby authorized, in his discretion, to suspend during the continuance of this act that provision of the act known as "reclamation act" requiring residence upon lands in private ownership or within the neighborhood for securing water for the irrigation of the same, and he is authorized to permit the use of available water thereon upon such terms and conditions as he may deem proper. (40 Stat. 276.)

"Sec. 12 (Duration of suspension.)—That the provisions of this act shall cease to be in effect when the national emergency resulting from the existing state of war shall have passed, the date of which shall be ascertained and proclaimed by the President; but the date when this act shall cease to be in effect shall not be later than the beginning of the next fiscal year after the termination, as ascertained by the President, of the present war between the United States and Germany (40 Stat. 276.)"

[6] The Act of May 15, 1922, 42 Stat. 541, provides in part:

"That in carrying out the purposes of the Act of June 15, 1902 . . . and Acts amendatory thereof and supplementary thereto, and known as and called the reclamation law, the Secretary of the Interior may enter into contract with any legally organized irrigation district whereby such irrigation district shall agree to pay the moneys required to be paid to the United States, and in such event water-right applications on the part of landowners and entrymen, in the discretion of the Secretary of the Interior, may be dispensed with . . ."

"Section 2. That patents and water-right certificates which shall hereafter be issued under the terms of the Act entitled "An Act providing for patents on reclamation entries, and for other purposes," . . . for lands lying within any irrigation district with which the United States shall have contracted, by which the irrigation district agrees to make the payment of all charges for the building of irrigation works and for operation and maintenance, shall not reserve to the United States a lien for the payment of such charges; . . ."

[7] Section 46 of the Omnibus Adjustment Act provided that:

"Prior to or in connection with the settlement and development of each of these projects, the Secretary of the Interior is authorized in his discretion to enter into agreement with the proper authorities of the State or States wherein said projects, or divisions are located whereby such State or States shall cooperate with the United States in promoting the settlement of the projects or divisions after completion and in the securing and selecting of settlers." Again this provision was not intended to alter the effect of the reclamation law and the

Secretary cannot exercise his discretion so as to "subvert the purposes of the Act."

[8] See Department of Interior Manual of the Bureau of Reclamation (1938 Edition) 373; Title 43, Code of Federal Regulations Section 230.05.

[9] See Kinney, *A Treatise of the Law of Irrigation and Water Rights and the Arid Region Doctrine of Appropriation of Waters*, 1912, pp. 2238–2239. Kinney cites a portion of President Roosevelt's first message to Congress, delivered December 3, 1901, as a classic statement upon the subject. Roosevelt's idea was that as a result of reclamation and settlement of arid lands "our people as a whole will profit, for successful home-making is but another name for the upbuilding of the nation."

[Filed Jan. 5, 1971—Clerk, U.S. District Court, Southern District of California, by———Deputy]

In the United States District Court, for the Southern District of California
No. 67-7-T

UNITED STATES OF AMERICA, PLAINTIFF

v.

IMPERIAL IRRIGATION DISTRICT, A CORPORATION, DEFENDANT

JOHN M. BRYANT, ROBERT C. BROWN, THEODORE B. SHANK, HAROLD A. BROCKMAN, CLARA MARIE GUTIERREZ, CHARLES E. NILSON, KAKOO D. SINGH, STEPHEN H. ELMORE AND JOHN KUBLER, JR.

LANDOWNER DEFENDANTS, BOTH INDIVIDUALLY AND ON BEHALF OF MEMBERS OF A CLASS, TO WIT, ALL PERSONS OWNING MORE THAN 160 ACRES OF IRRIGABLE LAND WITHIN THE IMPERIAL VALLEY IN CALIFORNIA.

STATE OF CALIFORNIA, INTERVENING DEFENDANT

Memorandum Opinion

I. JURISDICTION AND NATURE OF THE CONTROVERSY

This is a civil action brought by the United States. This court has jurisdiction under Title 28, § 1345 of the United States Code. An actual controversy within the jurisdiction of this court exists as to whether the land limitation provisions of reclamation law (hereinafter "acreage limitation" or "160-acre limitation") have any application to privately owned lands lying within the boundaries of said defendant Imperial Irrigation District (hereinafter "District").

The parties to this controversy are plaintiff United States of America, defendant District, landowner defendants John M. Bryant, Robert C. Brown, Theodore B. Shank, Harold A. Brockman, Clara Marie Gutierrez, Charles E. Nilson, Kadoo D. Singh, Stephen H. Elmore and John Kubler, Jr., and each of them, both individually and on behalf of members of a class, to wit, all persons owning more than 160 acres of irrigable land within the District (hereinafter, collectively, "landowner defendants") and intervening defendant State of California (hereinafter "California"). Heretofore, by orders duly entered, California and the landowner defendants were granted leave to intervene herein, the latter pursuant to Rule 23(b)2, Federal Rules of Civil Procedure as representatives of a class consisting of some 800 persons, each of whom own irrigable lands in excess of 160 acres. The aggregate holdings of the members of the class were approximately 233,000 acres as of September 3, 1965.

Plaintiff contends that the 160-acre limitation applies to privately owned lands within the District; and all of the defendants contend in all respects to the contrary.

There is no controversy between plaintiff and the State of California over the application of the excess land laws to the state lands in its Imperial Waterfowl Management Area. The United States, the defendant District and private land owner defendants agree with the State of California that those state lands are not subject to the excess land laws.

This opinion incorporates the court's findings of fact and conclusions of law pursuant to Rule 52, Federal Rules of Civil Procedure.

II. HISTORICAL BACKGROUND

The Imperial Irrigation District consists of lands in the Imperial Valley in California. Due to the below-sea-level topography of the Imperial Valley area, it was recognized as early as the middle of the 19th century that irrigation by means of diversion and gravity flow from the Colorado River was feasible. In comparatively recent geologic time, the Gulf of California extended inland to the northwest. Its upper limits reached northward of Indio. Through the years, the heavily silt-laden Colorado River deposited sediment and built up a low, flat deltaic ridge entirely across the ancient gulf, cutting off the upper portion from its connection with the ocean. The resulting basin was then an inland sea with a surface area of nearly 2,000 square miles. The greatest depth of this sea was about 320 feet. Deprived of its connection with the Gulf of California the severed sea dried up, and a portion of the bed which it occupied is now known as the Salton Basin. The greater area around and including this basin is known in its northern part as the Coachella Valley and in its southern part as the Imperial Valley.

In its natural condition, the entire region was an unproductive desert. The annual rainfall averages from two to three inches. The Colorado River and the Colorado River Delta east and south of the Imperial Valley are slightly above sea level. From the delta, the land slopes gradually north and west toward the center of Imperial Valley, which is almost entirely below sea level.

During occasional flooding of the Colorado River, the overflow waters would flow down the slopes of the delta northward into the bottom of the great depression and the Salton Basin. These floodwaters would concentrate more or less in depressions and channels leading from the delta region into what is now known as Salton Sea. These channels, or depressions, form natural canals for diversion of the Colorado River waters into Imperial Valley.

The initial appropriations and diversions of water from the Colorado River were made by the California Development Company, a privately owned corporation organized in 1896 and the predecessor in interest of defendant District, which was organized in July of 1911. These appropriations and diversions laid the foundation for the present perfected water rights which have admittedly existed within the boundaries of the District from and after June 25, 1929, the effective date of the Boulder Canyon Project Act.

The first water from the Colorado River was diverted and brought to the Valley in July of 1901. This water, which was diverted about one mile north of the international boundary with Mexico, was carried by the Alamo Canal through Mexican territory and back into the United States at Imperial Valley to avoid the high mesa and sand-hill country north of the international boundary. For most of its 50 mile course in Mexico, this canal made use of an ancient overflow channel known as the Alamo River, which formerly led into the Salton Sea.

The Alamo Canal, from its point of reentry into the United States, as well as the lateral canals through which water diverted from the river was ultimately distributed to land in the Valley, were owned by seven mutual water companies which were organized by the California Development Company. The stock in such mutual water companies was ultimately acquired by the individual landowners to whose land the water was supplied.

By 1903, through the distributive facilities constructed by the local mutual water companies, approximately 25,000 acres of valley lands were in irrigated cultivation, all as a result of diversions from the River. By the following winter, the irrigated acreage was increased to 100,000. 181,191 acres were irrigated by 1910, 308,009 in 1916, 413,440 in 1919, and 424,145 in 1929, the year when the Boulder Canyon Project Act took effect.

In 1905, the Colorado River broke through its banks, which had over the years been built up above the surrounding terrain, and completely changed its course, sending a flood of water through the Alamo Canal and over the broad flat area of Imperial Valley. As a consequence, for many months the entire flow of the River passed through the washed-out heading, through the Alamo Canal and into Imperial Valley, creating Salton Sea with a surface area of 330,000 acres, and threatening the entire valley with destruction. The surface of the Salton Sea, formerly nearly dry at an elevation of 273 feet below sea level, was raised to 190 feet below sea level. The efforts of the California Development Company to close the breach were unsuccessful. The Southern Pacific Company's tracks being endangered, the Southern Pacific Company advanced funds to the California Development Company to control the River and took controlling interest therein as security. By utilizing its own resources the Southern Pacific Company closed the breach in the west bank of the River and returned the River to its channel. In the Spring of 1916, the Southern Pacific Company foreclosed on the California Development Company's interests and, in June of that year, transferred them to defendant District.

In 1922–1923 District acquired all of the mutual water companies that had been organized by California Development Company. Since that time and until the present, the District has performed the entire function of diverting, transporting and distributing the water supply to farm holdings in Imperial Valley.

On November 24, 1922, the Colorado River Compact, an interstate agreement relating to allocations and rights in the waters of the River, was signed by commissioners representing the States of Arizona, California, Colorado, Nevada, New Mexico, Utah and Wyoming. It became effective June 25, 1929.[1]

The construction of the All-American Canal was authorized as part of the general project authorized by the Boulder Canyon Project Act (hereinafter "Project Act" or "Act") of December 21, 1928, effective June 25, 1929, 45 Stat. 1057, 43 U.S.C. § 617 et seq.

At the time of the taking effect of said Project Act, the District had a distribution and drainage system which was wholly financed, constructed, maintained and operated by local means. The distribution system then, as of June 25, 1929, comprised approximately 1,700 miles of main and lateral canals, providing for the irrigation by waters diverted by it from the Colorado River of approximately 424,000 privately owned acres, computed on a single cropping basis. All of this acreage was, as of June 25, 1929, being irrigated by and with Colorado River water, carried through the Alamo Canal. In 1966, just prior to the bringing of this action, there were approximately 438,000 acres irrigated with water transported through the All-American Canal.

Pursuant to the Project Act, the Government constructed Hoover Dam, at Black Canyon, and incidental works, completing the construction of the dam in 1935. On February 1, 1935, under the direction of the then Secretary of the Interior (hereinafter "Secretary"), Harold L. Ickes, the Government began storing water in Lake Mead, the reservoir created by Hoover Dam, and since that date the Government has continuously operated and maintained Hoover Dam for the purposes specified in the Project Act.

On December 1, 1932, the United States and the District, acting pursuant to the Project Act, entered into a contract providing, *inter alia*, for construction of a main canal connecting Imperial and Coachella Valleys and requiring repayment by the District for the costs of construction. Due to conflicts not material to this case, Coachella Valley landowners were not included in the District, but formed a separate District, the Coachella Valley County Water District, which executed a similar, though independent, contract with the United States in 1934 calling for construction of water delivery structures and delivery to lands in Coachella Valley.

Pursuant to its 1932 contract with the District, the United States constructed Imperial Dam and the All-American Canal, commencing construction in August, 1934. In 1940, the United States, while retaining the care, operation and maintenance of these facilities, commenced delivering water through the All-American Canal for use within the District. Also pursuant to the contract, the Secretary transferred to the District, on March 1, 1947, the care, operation and maintenance of the main branch of the All-American Canal west of Engineer Station 1098.

Since 1942, the District's entire water supply has been carried through the All-American Canal. Title to the Imperial Dam and the All-American Canal, as well as to Hoover Dam, is in the United States.

On March 4, 1952, the contract between the United States and the District was amended by a supplemental contract. On May 1, 1952, the Secretary transferred to the District the care, operation and maintenance of the works east of Engineer Station 1098.

The All-American Canal System, as provided for in the contract of December 1, 1932, was declared completed by the contract of March 4, 1952, between the United States and the District; repayment of construction charges commenced on March 1, 1955. The District's financial obligation was fixed at approximately

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[1] The Colorado River Compact was authorized by an Act of Congress dated August 21, 1921, 42 Stat. 171, and by the Acts of the Legislatures of the participating states. Congress approved it in section 13 of the Boulder Canyon Project Act, 43 U.S.C. § 617(1).

$25,000,000, repayable in forty annual installments, without interest. All such payments to date have been made from net power revenues derived from the sale of electrical energy generated by hydro-electrical facilities of the All-American Canal, costing the District approximately $15,000,000. The cost of Hoover Dam and powerplant, estimated in 1965 at $174,732,000, is being repaid with interest at three percent primarily from power revenues at the dam. One exception to this is that $25,000,000, of the cost of the dam, which was allocated to flood control, will be carried interest free by the Government until 1987.

III. DEVELOPMENT OF THE CONTROVERSY

The 1932 contract provided, *inter alia*, for repayment by the District of the cost of the project works. It did not contain any provisions requiring that acreage limitation apply to private lands within the District. On February 24, 1933, Secretary of the Interior, Ray Lyman Wilbur, in a letter mailed to the District, ruled that the 160-acre limitation did not apply to privately owned lands within the District.[2]

The Wilbur ruling was followed for 31 years and gave rise to an administrative practice which held the 160-acre limitation to be inapplicable to private landholdings within the District and which endured for the same period and down to the rendition of Solicitor Frank J. Berry's opinion of December 31, 1964.[3] In that opinion, the Solicitor concluded that Secretary Wilbur's 1933 ruling was erroneous and that the Boulder Canyon Project Act by its plain terms incorporates those provisions of reclamation law which impose acreage limitation on lands served from federal reclamation projects, including the privately owned lands within the District.[4]

Subsequent to this ruling, the Department for several years attempted to negotiate a new contract with the District which would have incorporated acreage limitation. The failure of these negotiation resulted in this action for declaratory relief.

IV. THE BASIC ISSUE

The question of whether the 160-acre limitation has any application to privately owned lands within the boundaries of the Imperial Irrigation District depends upon an interpretation of the Project Act. In deciding this case, defendants urge the court to limit its inquiry to a judicial review of the 1933 Wilbur ruling. They contend that because of the long-standing administrative practice and the reliance thereon by landowner-defendants in the District, Wilbur's interpretation should be upheld if there is any reasonable basis for his decision, citing *Udall v. Tallman*, 380 U.S. 1, *reh den* 380 US 989 (1965). The court declines to follow this course and believes that this statement of the *Tallman* rule should not be controlling in this case for the following reasons.[5] In *Tallman*, the suit was brought by an unsuccessful applicant for an oil and gas lease in the Kenai National Moose Range in Alaska. For many years, the Secretary of the Interior had interpreted Executive Order 8979 and Public Land Order 487, which withdrew certain lands from settlement and commercial exploitation, as not prohibiting oil and gas leases because they were not "dispositions" as that term is found in the Executive Order 8979. The first applicants received the particular lease in question; the unsuccessful applicant asserted that these regulations had closed the lands to such leases and that his lease should be issued because the prior applicants had applied when the lands were closed under the terms of these regulations. The court held that the Secretary's established interpretation was reasonable and hence entitled to controlling weight. The court observed that great deference is given to administrative interpretation of statutes, and that:

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[2] The full text of the letter is published in 71 *Decisions of the Department of the Interior* 496, App. E at 529.

[3] 71 *Decisions of the Department of the Interior* 496.

[4] The study leading up to this opinion was prompted by a letter dated August 7, 1961, from Senator Clinton P. Anderson, Chairman of the Committee on Interior and Insular Affairs, to Secretary Stewart Udall. In the letter, Senator Anderson advised the Secretary that he had received complaints from Southern California that the acreage limitation provisions of reclamation law were not being enforced in the Coachella and Imperial Valleys.

[5] There of course no quarrel with the principal that in problems of statutory construction great deference is given to the administrative interpretation. See *Udall v. Tallman*, *supra*, at . 16 and cases cited therein.

> “When the construction of an *administrative regulation* rather than a statute is in issue, deference is even more clearly in order.”[6] (emphasis supplied)

In this case, the basic problem is the meaning of an Act of Congress, not an administrative regulation. In addition, the controversy in *Tallman* was essentially a competition of private interests for commercial leases, while the decision whether acreage limitation applies under the Project Act involves important considerations of national policy, making this case less appropriate for application of the estoppel-like features of *Tallman*. If Secretary Wilbur was wrong, then he defeated a Congressional mandate extensively developed in reclamation law. Finally, in *Tallman* there was a consistent administrative practice, while here the Government has repudiated its former interpretation. The court therefore adopts the goal of determining whether Congress intended in the Project Act to apply acreage limitation to privately owned lands in the Imperial Valley.

This is the first stage of a bifurcated trial. Not included in this phase of the proceedings are the nature and extent of “present perfected rights” of the landowner-defendants, as that term is defined in the Supreme Court decree in *Arizona v. California*, 376 US 340, 341 (1964), or the issue of whether the landowners have any “vested rights” to Colorado River water as against the United States.

V. THE STATUTORY LANGUAGE

Plaintiff contends that the Boulder Canyon Project Act is a reclamation project, and that §§ 1, 4(b), 12 and 14 incorporate general reclamation law, one portion of which is § 46 of the 1926 Omnibus Adjustment Act, 43 U.S.C. § 423e. The latter statute provides that no privately owned lands in excess of 160 acres shall receive water from a new project or new division of a project. Therefore, the acreage limitation must apply to private lands within the District.

Four sections in the Project Act advert to reclamation law. Section 1 provides that construction costs for the canal are to be reimbursable as provided in the reclamation law.

Section 4(b) of the Project Act instructs the Secretary to provide for revenues

> “. . . by contract or otherwise, adequate in his judgment to insure payment of all expenses of construction, operation and maintenance of said canal and appurtenant structures in the manner provided in the reclamation law . . .”

Section 12 defines reclamation law as the 1902 Reclamation and and Acts “amendatory thereof and supplemental thereto.”

Section 14, heavily relied on by plaintiff, states:

> “This Act shall be deemed a *supplement to the reclamation law*, which said reclamation law shall govern the construction, operation, and management of the works herein authorized, *except as otherwise herein provided*.” (emphasis supplied)

Plaintiff asserts that the phrase “construction, operation and management of the works” includes water delivery. Since § 46 of the 1926 Act was the most recent addition to reclamation law at the time the Project Act was passed, it applies to condition delivery of water upon compliance with acreage limitation.

Plaintiff continues by pointing out that §§ 1 and 4(b) of the Project Act require repayment contracts pursuant to reclamation law, and the only means of contracting in 1932 was in accordance with § 46 which required acreage limitation. Thus, the 1932 contract necessarily incorporated an acreage limitation applicable to private lands. Limited to these facts, plaintiff's theory of the statute is disarmingly simple.

Closer examination reveals, however, that the references to reclamation law are carefully qualified, most noticeably by the § 14 language that reclamation law applies “except as otherwise herein provided.” And Congress has “otherwise provided” in § 5 that the Secretary may contract for storage and delivery of water.[7] Section 5 does not refer to reclamation law or acreage limitation, and this is the section where such reference would be most logical if water delivery is to be conditioned on acreage limitation. Where Congress has employed a term in one place and excluded it in another, it should not be implied in the section where it is excluded. *Federal Trade Commission* v. *Sun Oil Co.*, 371 U.S. 505 (1963). The repayment provisions of § 4(b) are limited to expenses of construction, operation and maintenance; there is no mention in this section of water delivery.

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[6] *Udall v. Tallman*, *supra*, at p. 16.

[7] Section 5 provides in part as follows:

“That the Secretary of the Interior is hereby authorized, under such general regulations as he may prescribe, to contract for the storage of water in said reservoir and for the delivery thereof . . . upon charges which will, in his judgment cover all expenses of operation and maintenance incurred by the United States on account of works constructed under this Act and the payments to the United States under subdivision (b) of Section 4.”

Section 1 of the statute requires reimbursement for the main canal and auxiliary structures under reclamation law, but the clause immediately following this language, "... and shall be paid out of revenues derived from the sale and disposal of water power or electric energy ...," suggests that the reference to reclamation law merely establishes the principle expressly added, i.e., that the works are not to be paid for by the sale of power. Perhaps most damaging of all to plaintiff's case is the sentence next following:

> "Provided, however, that no charge shall be made for water or for the use, storage, or delivery of water for irrigation ... in the Imperial or Coachella Valleys."

This express exemption from charges for water is one example of the distinction between water delivery and the concepts of reimbursement for project costs and the "construction, operation and maintenance" which is drawn throughout the statute. Other examples are found in Sections 8(a)[8] and 8(b).[9] This treatment hardly supports the conclusion that the phrase "construction, operation and maintenance" in § 14 includes water delivery.

In considering plaintiff's incorporation theory, an essential inquiry is whether § 46 is consistent with other terms of the Project Act. A comparison of section 4(b) of the Project Act with § 46 of the Omnibus Adjustment Act reveals differences which point to a displacement of § 46 by the terms of the Project Act. Section 46 contracts are mandatory, while § 4(b) contracts are discretionary. Section 46 deals with both repayment and limitation on water delivery, but § 4(b) does not mention water delivery because § 5 covers that topic. And § 46 contracts must be executed before water delivery, while § 4(b) contracts are to be executed before money is appropriated. From this it appears that the only item in § 46 not expressly provided for in the Project Act is the acreage limitation, an issue of social policy and not mere technical details of contracting. It is unlikely that Congress would relegate an issue as important as acreage limitation for private lands to indirect inclusion. This belief is reinforced by § 9 of the Project Act, which expressly limits public land entries entitled to use project water to 160 acres. The absence of a similar provision for private lands indicates that Congress did not apply acreage limitation to private lands. If the Project Act did incorporate general reclamation law, then § 3 of the 1902 Act[10] would apply, and the specific direction of § 9 would be unnecessary.

Plaintiff's contention that the 1932 contract between the Government and District was made pursuant to § 46 is unsupported. The contract at Article I recites that it was made pursuant to the 1902 Reclamation Act "and acts amendatory thereof or supplementary thereto . . . and particularly pursuant to" the Project Act. Consequently, the contract could simply have been made pursuant to § 5 of the Project Act and § 1 of the 1922 Reclamation Act, 43 U.S.C. § 511.[11] The mere existence of § 511 forecloses the argument that § 46 of the 1926 Act provided the only means of contracting for repayment in 1932 and indicates that if Congress had intended § 46 to apply, it would have so stated.

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[8] Section 8(a) provides in part:

"The United States . . . shall observe and be subject to and controlled by said Colorado River Compact in the construction, management and operation . . . *and* the storage diversion, delivery and use of water . . ." (emphasis supplied)

[9] Section 8(b) provides in part:

"Also the United States, in construction, managing, and operating the dam, reservoir, canals and other works herein authorized, *including* the appropriation, delivery and use of water . . . shall observe . . . the terms of such compact." (emphasis supplied) The use of the word "including" seems intended to emphasize the distinctions developed elsewhere.

[10] 43 U.S.C. §§ 416, 432, 434. This statute provides that public lands proposed for irrigation under reclamation projects shall be withdrawn and subject to entry under the homestead laws in tracts of not more than 160 acres.

[11] 43 U.S.C. § 511 provides that in carrying out the purposes of reclamation law, the Secretary may contract with irrigation districts for repayment of the costs, of construction, operation and maintenance of irrigation works. It also recites that no such contract will be binding on the United States "until the proceedings on the part of the district for the authorization of the execution of the contract with the United States shall have been confirmed by degree of a court of competent jurisdiction, or pending appellate action if ground for appeal be laid."

Finally, the Project Act contains ***a comprehensive set of provisions relating*** to the rights of prior appropriators of Colorado River Water under the Colorado River Water Compact. Section 6 of the Project Act names as the second use of the dam and reservoir the "irrigation and domestic uses of satisfaction of present perfected rights in pursuance of Article VIII of said Colorado River Compact . . ." Under the decree in *Arizona* v. *California* construing the Project Act, the application of a specific quantity of water to a defined area of land is an essential element of a perfected right.[12] It was held in the court's opinion that the Secretary is required to satisfy present perfected rights.[13] This duty of the Secretary to supply water to an area where present perfected rights exist is repugnant to the concept that the United States may at the same time shut off water deliveries destined for lands, be they excss or not, entitled to the beneficial use of Colorado River water in the exercise of these rights.

Section 8(a) of the Project Act subjects the United States and all water users to the controlling effect of the Colorado River Compact and constitutes a recognition by Congress of the guarantee of present perfected rights found in Article VIII of the Colorado River Compact.

In Section 13 of the Project Act, the Colorado River Compact is approved. There is a second statement that the rights of the United States are controlled by the Compact, and the pre-project water rights are made covenants running with the land for the benefit of water users. These covenants are expressly made available to them for use in any litigation concerning Colorado River water.

The combined effect of §§ 6, 8(a) and 13 of the Project Act is to express Congressional intent that the present perfected rights be protected from interference by any contrary provision of the Project Act or reclamation law. The specific and repeated guarantees found in these sections indicate that any provision such as acreage limitation which would curtail such rights would be detailed in correspondingly exact language. Neither the references to reclamation law contained in §§ 1, 4(b), 12 and 14 of the Project Act, nor any other term thereof demonstrate Congressional intention that acreage limitation apply to privately owned lands in the District.

Two additional propositions urged by plaintiff merit consideration in construing the statutory language. First, it is contended that the Project Act created a federal subsidy; and that therefore the Act must be strictly construed against the grantees (defendants). *Shively* v. *Bowlby*, 152 U.S. 1 (1894). However, the Project Act set in motion a great project conferring many and important benefits on all parties involved, including the United States.[14]

Among the national interests advanced by the Boulder Canyon Project are included:

(1) The inclusion within the District by annexation, pursuant to Article 34 of the contract between the Government and the District dated December 1, 1932, of some 250,000 acres of Government lands.

(2) Added capacity in the Canal for the servicing of such lands and some 11,000 acres of Indian land.

(3) Flood control for the purpose of preserving the Laguna Dam and protecting the Yuma Reclamation Project as well as protecting the public lands and private interests in Imperial Valley.

(4) The ontrol of silt because of the federal government's problem in handling silt in the Yuma Project.

(5) The need to build a canal on All-American soil to put the United States in a position to bargain with the Mexican Government over the use of the water of the Colorado River.

(6) It enabled the United States Government to reclaim and put to use large tracts of public and Indian lands of the United States in Coachella Valley. Application of this rule of construction does not advance the search for acreage limitation in the Project Act.

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[12] 376 U.S. 340, 341.

[13] 373 U.S. 456, at 566, 581, 584.

[14] A report of the Congress which passed the Project Act detailed the benefit to all parties and described the Project as a joint venture by necessity:

"Neither Imperial Irrigation District, the Coachella district, nor the United States could afford alone to build a canal from the river. Acting in conjunction, the canal is entirely feasible."

Report No. 592, 70th Congress, March 20, 1928 at p. 21.

In a related argument, plaintiff also contends that because there is no express exemption from the acreage limitations of reclamation law, the limitation must apply. In this matter, reliance is placed on the following statement in *Ivanhoe Irrigation District* v. *McCracken*, 357 U.S. 275, 292 (1959):

> ". . . where a particular project has been exempted because of peculiar circumstances, the Congress has always made such exemption by express enactment."

The guidance afforded by this remark is of doubtful value in this case, because in *Ivanhoe* the legal issue was whether state law precluded applicability of acreage limitation. The case is also factually distinguishable in that one basic ingredient of the Imperial Valley situation, the guarantee of perfected rights by Congress, was wholly lacking in the Ivanhoe context.[15]

Finally, it appears that the practice, cited by plaintiff, of enacting express statutory exemptions did not come into vogue until 1938 with the Colorado-Big Thompson Project.[16] This was some ten years after passage of the Boulder Canyon Project Act.

VI. LEGISLATIVE HISTORY

Secure in the belief that the statutory language clearly precludes an incorporation of acreage limitation, the court approaches legislative history with reluctance. The perils inhering in an imaginative recreation of the mind of Congress have been described by Mr. Justice Jackson, who termed the process a "psychoanalysis of Congress."[17] The language sought in the halls of Congress can usually be found in one place or another, and this is particularly true here, for the proceedings in Congress which culminated in the Project Act of 1928 spanned nearly a decade. However, the disagreement of experts in reclamation law, and the abrupt reversal of Departmental policy require some examination of legislative history for its teachings on Congressional intent.

The first Kettner Bill (H.R. 6044) in 1919 regarding construction of the Boulder Canyon Project did not contain an express provision for acreage limitation. In 1920, a second Kettner Bill (H.R. 11553) was introduced which contained a specific acreage limitation provision. It became apparent that more technical studies were needed before embarking on this ambitious project, and Congress in 1920 authorized a study which resulted in the comprehensive Fall-Davis Report.[18] The Report reaffirmed prior recommendations for an All-American Canal, and, based upon engineering studies of dam sites, recommended the construction of a high dam in Boulder Canyon.

Shortly after publication of the Report, Senator Hiram Johnson and Congressman Phil Swing introduced identical bills in the Senate and House proposing construction of an All-American Canal and high dam near Boulder Canyon. These bills did not contain an express acreage limitation provision. Due to continuing controversy over dam sites, neither bill was reported out of committee during the 67th Congress.

When the 68th Congress convened, Senator Johnson and Congressman Swing again introduced identical bills, neither providing expressly for acreage limitation, but again neither bill was reported out of committee.

In the 69th Congress, Senator Johnson and Congressman Swing each introduced tmo more bills. During hearings in 1926 before the House Committee on Irrigation and Reclamation, the question arose whether either of the pending Swing Bills (H.R. 6251 and H.R. 9826) would make acreage limitations apply to private lands in the Imperial Valley. Congressman Swing and Dr. Elwood Mead, then Commissioner of the Bureau of Reclamation, both stated unequivocally that nothing in either of the bills would require a landowner to dispose of holdings in excess of 160 acres in order to receive water from the All-American Canal:

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[15] Indeed, it is doubtful whether the landowners before the court in *Ivanhoe* had any vested rights which Congress could have guaranteed. Certainly the landowners in the Ivanhoe District itself did not. See *Ivanhoe Irr. Dist.* v. *All Parties*, *supra*, 47 Cal. 2d 597., 654, 658 (Dis. op.); *Ivanhoe Irr. Dist.* v. *McCracken*, *supra*, 357 U.S. 275, 285: "It is interesting to note that irrigators in this district receive water diverted from the San Joaquin in which they never had nor were able to obtain any water right."

[16] 43 U.S.C. § 386.

[17] *United States* v. *Public Utilities Commission*, 345 U.S. 295, 319–320 (1953).

[18] Sen. Doc. 142 *Problems of the Imperial Valley and Vicinity* 67th Cong. 2nd Sess. (1922).

"Mr. Sinnott.[19] I would like to ask the doctor is there any provision in the bill sponsored by the Secretary on the farm unit on the lands to be irrigated?

"Dr. Mead. This bill does not go beyond the provisions for three things. One is the dam—the reservoir—and the second is the power plant, and the third is the All-American Canal. It does not deal with irrigation of new lands[20] at all.

"The Chairman. [Congressman Addison T. Smith] That is reserved for future legislation?

"Dr. Mead. Yes, sir.

". . .

"Mr. Sinnott. The present owner can occupy his present farm unit?

"Dr. Mead. Yes, sir.

"Mr. Sinnott. *No matter what that might be?*

"Dr. Mead. Yes.

"Mr. Sinnott. What is that now in the Imperial Valley?

"Dr. Mead. Of course, it varies widely. There is not any law. *There are a good many large holdings there.*

". . .

"Mr. Sinnott. There is nothing in this bill requiring the landowner to sell the surplus over a farm unit of 160 acres at a price to be fixed by the Secretary, as is now in the present reclamation law?

"Mr. Swing. *no, sir.*" (emphasis supplied) [21]

After completion of the hearings, Congressman Leatherwood of Oregon prevailed upon the committee to amend its print of H.R. 9826 by including an amendment requiring acreage limitation provisions in all contracts for the delivery of irrigation water.[22] H.R. 9826 was reported favorably out of committee, was debated on in the House early in 1927, but was not voted upon.

On the Senate side, one of the Johnson bills, S.3331, was also favorably reported out of committee, but a vote on this bill was blocked by a filibuster conducted by Senator Ashurst of Arizona. During the floor debates on this bill, Senator Phipps of Colorado offered two amendments which would have incorporated express acreage limitation requirements. Neither of these amendments was adopted.

While this third set of Swing-Johnson proposals did not contain specific acreage limitations provisions, it did refer to reclamation law, making the act a "supplement to the reclamation law, which said reclamation law shall govern the construction, operation and maintenance of the work . . . ," the predecessor of § 14 of the Project Act. The advice of Dr. Mead and Congressman Swing in Committee, and the proferred amendments containing express acreage limitation provisions must be read in conjunction with this § 14 language in the bills, language which plaintiff now contends incorporates the acreage limitation features of § 46 of the 1926 Act. The timing of these occurrences is deserving of interest, for this was the Congress which months earlier had passed the Omnibus Adjustment Act of 1926 and would presumably be most sensitive to the possibility of incorporating § 46 acreage limitation into the Project Act by means of the language which was to become § 14.

The 70th Congress saw the introduction of the fourth Swing-Johnson bills, and at the outset one striking development is noted. While all previous Swing-Johnson bills had been identical, now Congressman Swing's bill, H.R. 5773, contained a specific acreage limitation proviso, but Senator Johnson's bill, S. 728, did not contain any such limitation.

H.R. 5773 was reported favorably and was passed by the House after brief debate. In the Senate, Senator Ashurst proposed another bill, S.1274, which expressly included acreage limitation. The Senate committee refused to take action on this bill and likewise failed to incorporate an amendment by Senator Ashurst to S.728 which would have added acreage limitation. S.728 was reported out of committee with a recommendation for passage,[23] but Senate debate on the measure was again bogged down in a filibuster by the Arizona Senator. At the beginning of the second session, the Senate undertook consideration of H.R. 5773 under the floor management of Senator Johnson. Senator Hayden of Arizona had called attention to the discrepancy between the House and Senate versions in the matter of acreage limitation and proposed a corrective amendment. This amendment was not adopted. Senators Ashurst and Hayden on several occasions called attention to their rejected amendments and criticized the Senate bill for its lack of an acreage limitation applicable to private lands.[24]

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[19] Congressman Sinnott of Oregon.

[20] I.e., a "new" project, in the language of the Department. And § 46 of the 1926 Omnibus Adjustment Act, upon which plaintiff relies, only relates to "new" projects or "new divisions" of old projects.

[21] *Hearings on H.R. 6251 and H.R. 9826 Before the House Committee on Irrigation and Reclamation*, 69th Congress, pp. 32–33 (1926).

[22] H. Rept. No. 1657 on H.R. 9826, 69th Cong. 2nd Sess. at pp. 29–30 (1926).

[23] S. Rept. 592 on S. 728, 70th Cong. 1st Sess., March 20, 1928.

The statements of Senators Phipps, Hayden and Ashurst recur too frequently and are too pointed to be disregarded. While the statements of opponents of a bill may not be authoritative, "they are nevertheless relevant and useful, especially where, as here, the proponents of the bill made no response to the opponents' criticisms." [25]

In this session, Sen. Johnson moved to substitute S.728 for H.R. 5773 so as to retain the enacting clause of H.R. 5773 and the text of S.728, leaving the potential Act without an express acreage limitation provision. Senator Johnson advised the Senate that H.R. 5773 contained "like purposes and like designs" and that the substitution was offered to "preserve orderly legislative procedure." Unanimous consent to the substitution was obtained.[26]

This action is puzzling no matter how you read the completed statute with regard to acreage limitation. Plaintiff contends that because there was unanimous consent, with no complaint even from Senators Ashurst and Hayden, the Senate believed that acreage limitation was incorporated by the general references to reclamation law and that there was no real difference. However, the numerous amendments proposed and the remarks during debate clearly show that Congress did not understand the two bills to be identical. Why someone on either side of the issue did not point to this significant difference is a question which probably cannot be answered now except by speculation.

To conclude the chronology, the Senate passed this version of the bill, and the House did likewise shortly thereafter. President Coolidge signed it into law on December 21, 1928.

There remains the question of why Congress desired to exempt these lands from acreage limitation when that policy had been a cornerstone of prior reclamation law. As noted in the discussion of the plain language of the statute, Congress enacted legislation recognizing prior rights to appropriation of Colorado River water which had been established by land cultivators in the Imperial Valley. The proceedings before Congress show that it was aware of the water rights held in Imperial Valley and that provisions of §§ 1, 6, 8, and 13 of the Project Act were designed to protect these rights from charges for water delivery and to insure that rights deriving from the Colorado River Compact would be recognized.[27] The steps taken to protect these rights were accomplished in recognition of the fact that the All-American Canal Project was not merely an arid lands reclamation project, but was a special purpose program designed for national purposes, including water negotiations with Mexico, as well as for regional agricultural development.

VII. ADMINISTRATIVE PRACTICE

In construing a statute, weight must be given to interpretation placed on the statute by those charged with its administration. *Zemel v. Rusk*, 381 U.S.1 (1965). See also *Udall v. Tallman*, 380 U.S.1 (1964). Respect for administrative interpretation is particularly appropriate when the administrative practice involves a "contemporaneous construction of a statute by the men charged with the responsibility of setting its machinery in motion, of making the points work efficiently and smoothly while they are yet untried and new.' *Norwegian Nitrogen Products Co. v. United States*, 288 U.S. 294, 315 (1933)." *Power Reactor Co. v. Electricians*, 367 U.S. 396, 408 (1961).

After consultations within the Department, Secretary Wilbur on February 24, 1933, advised the Imperial Irrigation District by letter that the acreage limitation of reclamation law did not apply to private lands in the Imperial Valley. This letter stated in pertinent parts as follows:

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[24] See e.g., 69 Cong. Rec. 9451.

[25] *Arizona* v. *California*, 373 U.S. 546, 583 n.85 (1963).

[26] 70 Cong. Rec. 67 (1928).

[27] See, e.g., Remarks of Senator King in 70 Cong. Rec. 528; Remarks of Senator Johnson 70 Cong. Rec. 233.

"Early in the negotiations connected with the All-American Canal contract the question was raised regarding whether and to what extent the 160-acre limitation is applicable to lands to be irrigated from this canal. Upon careful consideration the view was reached that this limitation does not apply to lands now cultivated and having a present water right. These lands, having already a water right, are entitled to have such vested rights recognized without regard to the acreage limitation mentioned. Congress evidently recognized that these lands had a vested right when the provision was inserted that no charge shall be made for the storage, use, or delivery of water to be furnished these areas.

In connection with the activities of the Bureau of Reclamation it has been held that the provisions of section 5 of the reclamation act restricting the sale of a right to use water for land in private ownership to not more than 160 acres will not prevent the recognition of a vested water right for a larger area, and protection of the same by allowing the continued flowage of the water covered by the right through the works constructed by the Government. (Opinion of Assistant Attorney General, 34 L.D. 351; Anna M. Wright, 40 L.D. 116). On many projects it has been the practice to recognize vested rights in single ownership in excess of 160 acres and to deliver the water necessary to satisfy such rights through works constructed by and at the expense of the Government. This is true of the Newlands project, the North Platte project, the Umatilla project, and others."

Pursuant to Article 31 of the December 1, 1932, contract, judicial proceedings for the confirmation of the contract were instituted in the California Superior Court for Imperial County, sub. nom. *Hewes v. All Persons*. (Civil No. 15460, unreported, 1933). The United States was not named a party but was kept advised of all steps in those proceedings and furnished with copies of all pleadings and papers filed therein. There was directly raised in the pleadings the question as to whether the 160-acre limitation had application to privately owned lands within the District. At no time did the United States voice opposition to the proposition urged in the litigation that 160-acre limitation did not apply to landholdings within the District, either by intervening in said action, appearing therein as amicus curiae or otherwise.

The decision in said cause of *Hewes v. All Persons* upheld the authorization for the the validity of the December, 1932 contract, as written, i.e., as being a contract which, consistently with the knowledge and intent of the parties thereto, contained no clause or provision having the effect of imposing the 160-acre limitation upon private landholdings within the District. *The decision expressly held that the acreage limitation had no application to privately owned lands within the District.* At all times during the construction of the All-American Canal and thereafter, the United States was aware of the holdings of the Superior Court. During the years when the All-American Canal was being constructed, no one in the Bureau of Reclamation or Department of the Interior suggested at any time that the acreage limitation was or should be applicable to the Imperial Valley.

In 1941, B. P. King, an attorney in the Bureau of Reclamation was authorized by Commissioner of Reclamation, W. J. Bunks, under instructions of the Secretary of the Interior, Harold L. Ickes, to make a comprehensive study of the excess land law. Pursuant to these directions, a report was filed in the same year entitled "The Excess Land Provision of the Federal Reclamation Law." In the report, Mr. King gave consideration specifically to the All-American Canal. Mr. King concluded that the excess land provisions of federal reclamation law were not applicable to the Imperial Valley.

In 1942, the General Counsel for the Federal Land Bank at Berkeley raised the question as to whether the 160 acre limitation was applicable to privately owned lands within the Imperial Irrigation District, Imperial County, California. The officials of the Federal Land Bank at Berkeley were informed by the Bureau of Reclamation that the limitation did not apply to such lands.

In 1946, the Bureau of Reclamation published its "Landownership Survey on Federal Reclamation Projects." This survey reflected no excess land acreage in the Imperial Valley.

Perhaps the most serious challenge to the administrative policy initiated by the Wilbur letter arose in 1944-1945 in connection with negotiations for a supplemental repayment contract to be entered into between the United States and the Coachella Valley County Water District. Solicitor of the Department Fowler Harper rendered an opinion[28] on May 31, 1945, stating that Section 14 of the Project Act carried into operation the acreage limitation provisions of reclamation law and that acreage limitation should be incorporated in the Coachella contract. He noted that the Wilbur letter was limited to Imperial Valley, but he criticized it on the basis that it disregarded all other excess-land provisions except section 5 of the 1902 Reclamation Act.

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[28] 71 *Decisions of the Department of the Interior* 496 Appendix H at p. 533.

Following approval of the opinion by Secretary Ickes, a supplemental contract was executed on December 27, 1947, which imposed acreage limitations in the Coachella Valley. Compliance was voluntary on the part of the Coachella District, and no litigation on the issue ensued. Whether this acceptance was in recognition of the correctness of the ruling or merely reflective of the fact that there were few excess land holdings is unknown.

The Department was left in the seemingly anomalous position of enforcing acreage limitation in Coachella Valley under the Project Act while allowing excess land holdings in the Imperial Valley. It will be recalled that section 1 of the Project Act prohibits charges for the "use, storage or deivery of water . . . in the Imperial or Coachella Valleys." This apparently contradictory state of affairs was called to the attention of Secretary Krug in 1948. In a letter to H. [illegible]. Hermann of the Veterans of Foreign Wars, commenting on this situation, the Secretary noted that as a technical matter the Harper opinion applied only to Coachella Valley. He further stated:

"Concerning, however, the substantive questions which relate alike to both districts, we have concluded that inasmuch as the Secretary of the Interior then charged with the administration of law construed the acreage limitation as not being applicable to lands of the Imperial Irrigation District under the facts as he then understood them, and it being clear that the then owners and subsequent purchasers of irrigable lands in the Imperial Irrigation District were entitled to reply upon advice from the Secretary and thus establish an economy in the district consistently with that advice, they should not now be abruptly advised that the economy of the project is to be changed under a contrary ruling of the present officer charged with the administration of the law.

To the extent, therefore, that the actual fact situation with respect to lands and water rights may be identical in the two districts in question, and to the extent that the advice furnished in the Coachella case would otherwise be applicable in the Imperial case, we feel that we must allow that inconsistency, if such there be, to continue. I think that you will understand the position which the Department must take in this matter in fairness to those who have relied on its action, even though that action might now be subject to valid question." (emphasis supplied)

While the Secretary based his reluctance to press the Imperial matter further on considerations of fairness to those who had long relied on the Wilbur letter, he studiously avoided conceding that an inconsistency existed because Solicitor Harper himself was not informed of the status of water rights in the two districts. In his opinion, Solicitor Harper states:

"Although the language of the letter of Secretary Wilbur seems broad enough to include the Coachella Valley District lands, the letter was clearly intended only to apply to the Imperial Irrigation lands. It apparently assumes that all privately owned land in the District was under irrigation and has a vested water right. Nothing in the files indicates whether such is the factual situation, and there is strong indication that the Coachella Valley lands are to a very large degree as yet not irrigated."

There was of course ample data then available to show that in Imperial Valley there were in excess of 400,000 acres receiving pre-project irrigation in reliance on rights to Colorado River water. The major weakness of the Harper decision as it relates to Imperial Valley is its failure to deal with this question of pre-project water rights. There was much discussion of how section 14 of the Project Act made that act a supplement to reclamation law, but no discussion of Congressional recognition of pre-existing rights under the Colorado River Compact found in sections 6, 8, and 13 of the Project Act. As has been noted in the discussion of statutory language, there is no inconsistency between a prohibition on charges for the use, storage and delivery of water and an acreage limitation provision, but there is such an inconsistency between recognizing the pre-existing rights and enforcing acreage limitation. The extent of pre-project development is the heart of the difference between the Imperial and Coachella situations, and this is why Secretary Krug's statement of what he would do if an inconsistency existed at that time does not represent serious and informed criticism of the Wilbur policy. That it was even less a rejection of that policy is evidenced, in part, by the negotiation in 1952 of a supplemental contract with the Imperial Irrigation District which made no mention of acreage limitation.[29] In Article 17 the supplemental contract reaffirmed the contract of December, 1932. Such reaffirmance expressly continued in effect the 1932 covenants with reference to the satisfaction of perfected rights, the controlling effect of the Colorado River compact and the other provisions of the 1932 contract earlier mentioned herein.

On February 5, 1958, Solicitor Bennett of the Department of the Interior wrote the Solicitor General of the Department of Justice in connection with the then pending case of *Arizona v. California*, 373 U.S. 546, and the question posed by Arizona in the oral argument therein as to whether the 160 acre limitation was applicable to the lands of the Imperial Irrigation District. Solicitor Bennett stated:

"The water contract between the United States and the Imperial Irrigation District was executed December 1, 1932, some 25 years ago. The negotiations leading to the contract were lengthy and extensively in the public view. Except at the time of court confirmation, *I am not aware of any challenge as to the legality of the contract during this entire period. Water has been delivered to the lands of Imperial District pursuant to the contract since the early 1940's. I am not aware that any administrative action has been proposed or taken either by the preceding administration or by this one to recognize or enforce application of the 160 acre limitation to the lands of the Imperial Irrigation District.*"

The United States acting through the then Secretary of the Interior accepted the contract as having been confirmed and acting thereon proceeded to initiate construction of the All-American Canal and engage upon a variety of transactions in reliance upon the validity of the contract. *There must surely arise a point of time, again I believe long since past, when the contract in keeping with the terms of Article 31 became binding upon the United States and the District. To treat otherwise at this date could have far-reaching effect.*" (emphasis supplied)

This history of the administrative practice has necessarily been selective, but a thorough review of Departmental policy has failed to disclose a departure from the interpretation initiated by Secretary Wilbur until 1964. This interpretation was followed during the incumbencies of six successor Secretaries and four Presidential administrations.[30] From time to time during the period 1933-1964, a few individual members of the Department expressed doubt as to the validity of the Wilbur opinion, but these doubts never crystallized into an official repudiation. The Supreme Court commented on a similar situation in *United States v. Midwest Oil Co.*, 236 U.S. 459, 472-473 (1915):

"It may be argued that while these facts and rulings prove a usage, they do not establish its validity. But government is a practical affairs intended for practical men. Both officers, lawmakers and citizens naturally adjust themselves to any long continued action of the Executive Department—on the presumption that unauthorized acts would not have been allowed to be so often repeated as to crystallize into a regular practice. That presumption is not reasoning in a circle but the basis of a wise and quieting rule that in determining the meaning of a statute or the existence of a power, weight shall be given to the usage itself—even when the validity of the practice is the subject of investigation."

VIII. CONGRESSIONAL KNOWLEDGE AND APPROVAL OF THE WILBUR INTERPRETATION

The failure of Congress to revise a statute or take other affirmative action with respect to an administrative interpretation of a statute is often competent evidence that the interpretation is congruent with the legislative design. *Norwegian Nitrogen Co. v. United States*, 288 U.S. 294 (1933). *Cf. Red Lion Broadcasting Co., Inc. v. Federal Communication Commission*, 395 U.S. 367 (1969); *Zemel v. Rusk*, 381 U.S.1 (1965).

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[29] Former Solicitor of the Department Edward Weinberg, who participated in these contract negotiations, testified that the Department had considered including an acreage limitation clause in the contract, but that this item was dropped because the Department was then preoccupied with the problem of treaty commitments to Mexico for delivery of water. Also, it was recognized that the District would not have signed a contract incorporating acreage limitation. After considering these factors, the Department was of the opinion that inclusion of acreage limitation for private lands would be "counter-productive."

[30] Secretary Ickes under Presidents Roosevelt and Truman; Secretaries King and Chapman under President Truman; Secretaries McKay and Seaton under President Eisenhower. During his tenure under President Kennedy, Secretary Udall did not disturb the interpretation.

Congress for more than 30 years was fully aware of the 1933 ruling and interpretation of Secretary Wilbur and of the administrative practice predicated thereon. The Imperial Valley situation in light of such interpretation and practice was called to its attention in appropriation hearings for the construction and operation of the All-American Canal, at the hearings on the Central Valley and San Luis projects and at the hearings on the Small Projects Act of 1958.

Beginning in 1943, efforts were made in Congress to exempt the Central Valley Project of California from the acreage limitation. These attempts generated a fierce debate over the basic policy of land limitation, which continued for more than three years. In the end, advocates of the 160-acre limitation were successful as regards its application to Central Valley. While the inapplicability of the acreage law to Imperial Valley was repeatedly cited to Congress, the validity of that position went unchallenged. On the contrary, the Bureau of Reclamation never flagged in its support of the Wilbur ruling. Typical is the testimony of Assistant Commissioner Warne before a Subcommittee of the Senate Commerce Committee in connection with the Omnibus Rivers and Harbors bill of 1944:

"Representative Elliott: Why was the limitation lifted in the Southern part of California down in the Imperial Valley? Why was the 160-acre limitation lifted? That applied there, just the same as it did elsewhere.

"Mr. Warne: No, there was never a 160-acre limitation applied to the Imperial Valley.

"Representative Elliott: It came under the same Act, the Act of 1902.

"Mr. Warne: No, I am sorry, I think you will find that the Boulder Canyon Act authorized the All-American Canal, and that the provision did not apply there except as to public lands. . . ." [31]

In addition to the foregoing, copies of the Bureau of Reclamation's excess land surveys of 1946 and 1964 were filed with Congress.

At no time from 1933 to the present has Congress taken any action in derogation of the propriety of the Wilbur interpretation or of the long standing administrative practice which followed it.

It has been observed that to attribute significance to the inaction of Congress is often a "shaky business." [32] In the case, however, some weight must attach to this knowing inaction. Congress would hardly have ignored the Department's failure to enforce an important provision of reclamation law. *Accord, United States v. Gerlach Livestock Co.*, 339 US 725, 735–736 (1950).

The court accordingly holds that the defendant Imperial Irrigation District is not bound by the land limitation provisions of reclamation law in the delivery of Colorado River water to any of the privately owned lands within the boundaries of Imperial Irrigation District.

The court further holds that the land limitation provisions of reclamation law have no application to privately owned lands lying within the Imperial Irrigation District.

Counsel for defendants may present an appropriate judgment.

Dated: January 5, 1971.

HOWARD B. TURRENTINE,
Judge, United States District Court.

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[31] Hearings on H.R. 3961, before a Subcommittee of the Senate Committee on Commerce, 78th Cong., 2d Sess., Part IV, page 599 (1944).

[32] *Power Reactor Development Co. v. International Union of Electrical Radio & Machine Workers*, 367 U.S. 396, 408–409 (1960).

[Filed Jan. 6, 1972—Clerk, U.S. District Court, Eastern District of California, by———
Deputy Clerk]

In the United States District Court, Eastern District of California

No. 2483 Civil

UNITED STATES OF AMERICA, PLAINTIFF,

vs.

TULARE LAKE CANAL COMPANY, A CORPORATION, DEFENDANT
and
TULARE LAKE BASIN WATER STORAGE DISTRICT AND SALYER LAND COMPANY, A CORPORATION, INTERVENOR DEFENDANT

Memorandum and Order

The United States brought this action for an injunction to restrain the defendant, Tulare Lake Canal Company, from delivering stored water released to it from Pine Flat Dam and Reservoir to any lands in excess of 160 acres in any one ownership unless the owner complied with the legal requirements of reclamation law.

Intervenors, Tulare Lake Basin Water Storage District and the Salyer Land Company, obtained leave to intervene as parties defendant.

Defendant, Tulare Lake Canal Company, admits that stored water is being delivered to the excess land of the Chatom Company which has not executed a recordable contract for the sale of excess land.

All parties concede that the Pine Flat Dam and Reservoir was built pursuant to the Flood Control Act of 1944 and that the terms of the said Act are controlling with respect to the delivery of water to the defendants.

Plaintiff contends that Section 8 [1] of the Flood Control Act of 1944 requires application of reclamation law and defendant contents that Section 10 [2] of the same Act prevents the imposition of reclamation law. Defendant also claims that if reclamation law does apply, lump sum payment of allocable costs of construction of the dam relieves them of the 160 acre limitation and also that applying acreage limitation to them would be unconstitutional.

The value of a dam at Pine Flat has long been recognized as it would regulate the flow of the Kings River and thus prevent flood damage and would provide water for irrigation when it was needed instead of when nature sent it down the stream.

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[1] "Hereafter, whenever the Secretary of War determines upon recommendation by the Secretary of the Interior that any dam and reservoir project operated under the direction of the Secretary of War may be utilized for irrigation purposes, the Secretary of the Interior is authorized to construct, operate, and maintain, under the provisions of the federal reclamation laws (Act of June 17, 1902, 32 Stat. 388, and Acts amendatory thereof or supplementary thereto), such additional works in connection therewith as he may deem necessary for irrigation purposes. Such irrigation works may be undertaken only after a report and finding thereon have been made by the Secretary of the Interior as provided in said federal reclamation laws and after subsequent specific authorization of the Congress by an authorization Act; and, within the limits of the water users' repayment ability such reports may be predicated on the allocation to irrigation of an appropriate portion of the cost of the structures and facilities used for irrigation and other purposes. Dams and reservoirs operated under the direction of the Secretary of War may be utilized hereafter for irrigation purposes only in conformity with the provisions of this section, but the foregoing requirements shall not prejudice lawful uses now existing; provided, that this section shall not apply to any dam or reservoir heretofore constructed or in whole or in part by the Army Engineers, which provides conservation storage of water for irrigation purposes."

[2] "That the following works of improvement for . . . the control of destructive flood waters and other purposes are hereby adopted and authorized . . . to be prosecuted under the direction of the Secretary of War and supervision of the Chief of Engineers in accordance with the plans in the respective reports hereinafter designated and subject to the conditions set forth therein. . . .

"The project for flood control and other purposes for the Kings River and Tulare Lake Basin, California, is hereby authorized substantially in accordance with the plans contained in House Document Numbered 630, Seventy-sixth Congress, third session, with such modifications thereof as in the discretion of the Secretary of War and the Chief of Engineers may be advisable at an estimated cost of $19,700,000: Provided, That the conditions of local cooperation specified in said document shall not apply: Provided further, That the Secretary of War shall make arrangements for payment to the United States by the State or other responsible agency, either in lump sum or annual installments, for conservation storage when used: Provided further, That the division of costs between flood control, and irrigation and other water uses shall be determined by the Secretary of War on the basis of continuing studies by the Bureau of Reclamation, the War Department, and the local organizations."

The U.S. Army Corps of Engineers proposed to build the dam as a flood control project and the Bureau of Reclamation desired to build the dam as a reclamation project. The legislative history cited by all parties to this lawsuit supports their position as so much was said by Congress, the President and the various governmental agencies that citations are available for all positions.

It appears that Congress settled the dispute in favor of flood control. Not only did it entitle the act authorizing the construction of Pine Flat Dam and Reservoir the Flood Control Act of 1944, but it entrusted the construction to the U. S. Army Corps of Engineers under the direction of the Secretary of War.

There were many reasons which prompted Congress to reach this decision, some of which are:

1. Studies showed flood control benefits to be greater than irrigation benefits.
2. The Government claims no water rights in the Kings River.
3. All the water rights to the Kings River are vested in the water users.
4. The dam would not create supplemental water which could be sold by the Government.
5. Arid land would not be reclaimed by reason of the dam being built.
6. All the canals and ditches carrying water from the Kings River to the farms are owned by the water users.
7. 200,000 acres known as the Tulare Lake Basin are subject to flood and drought, and are not adaptable to actual settlement as contemplated by the reclamation laws.

Thus the Pine Flat Dam and Reservoir is not a reclamation or irrigation project but is actually a flood control project with incidental conservation storage for irrigation. Congress provided that the water users pay the costs of the dam attributable to conservation storage which the Secretary of War has determined to be $14,250,000. In addition, the water users are required to pay a share of the costs of operation, maintenance and contract administration in return for the privilege of storing their water behind the dam.

Acreage limitations were not proposed by the Army Engineers in their reports submitted to Congress. Congress adopted these reports and incorporated them into the Flood Control Act of 1944. Congress never intended that acreage limitations be applied to the water stored behind the Pine Flat Dam or it would have said so.

The Government contends that Section 8 (Footnote 1 supra) of the Act requires the application of acreage limitations but this section would apply only if supplemental water were developed which would be owned by the Government and could be sold, or to water that would be delivered through canals and ditches built by the Bureau of Reclamation, neither of which occurred.

Section 10 (Footnote 2, supra) of the 1944 Act specifically authorizes the Secretary of War to make arrangements for payments to the United States for water storage either in lump sum or annual installments and to determine the division of costs between flood control and irrigation.

The defendant, Tulare Lake Canal Company, having vested rights in the water in the Kings River and having paid the United States its share of the cost of constructing Pine Flat Dam, as determined by the Secretary of War, is not subject to the 160 acre limitation of the reclamation laws.

Therefore, the Government's request for an injunction is denied, because reclamation laws do not apply to water stored behind the Pine Flat Dam, and if they did, pay-out relieved defendant of the 160 acre limitation.

In view of this conclusion, the constitutional questions raised by defendant were not reached.

Counsel for defendant is directed to prepare and lodge findings of fact, conclusions of law and form of judgment in accordance with the Local Rules of this court.

The clerk of this court is directed to serve copies of this order by United States mail upon the attorneys for the parties appearing in this cause.

DATED: January 5, 1972.

M. D. CROCKER,
United States District Judge.

Senator Stevenson. Our next witness is Ms. Dolores Huerta, Vice-President of the United Farm Workers Organizing Committee.

STATEMENT OF MS. DOLORES HUERTA, VICE PRESIDENT, UNITED FARM WORKERS ORGANIZING COMMITTEE, DELANO, CALIF.

Ms. Huerta. Thank you Senator.

I am grateful for the opportunity to testify here today. I believe, as I have heard these hearings and you have been talking about laws and the breaking of laws and the establishment of the limitation, it seems to me that you could talk about this for time eternal. I think the fact that many of the large corporate growers have not appeared at these hearings, the fact that the Farm Bureau Federation didn't bother to show up, certainly shows that they know they have the strength and they are cynical enough, too, to know they can stay away from these hearings, and regardless of what type of legislation this committee or anybody else comes up with, it won't make any difference because they have such a strong political grasp of the rural economy, in the State of California and other States, that unless that political control can be changed, they can continue to do what they so please.

Over the years this committee has had many hearings on the problem of migrant farmworkers. They are not talking about that now, but the problems of farmworkers still exist and the only areas or the only place where those problems have been eliminated in the United States of America, is where we have been able to achieve collective-bargaining agreements. In those areas where we do have union contracts the laws are being enforced. Children are not working, people have protection from discharge, people have drinking water and toilets in the field. They are not being poisoned by pesticides, but only those cases, because the law enforcement body in those areas are the union stewards, and the ranch committee.

I think it is because we only have one-tenth of the farmers in the country, one-fifth of the farmers in the State of California, under contract, and less than 1 percent of the farmers in the United States are under contract.

We even hear we have been able to accomplish miracles, because we have established some cooperative programs. In Kern County, with all of the millions of dollars in subsidies that the growers have received, they have never bothered to establish one social program, a clinic or anything else. We have a clinic staffed by doctors and nurses that is treating 80 farmworkers a day, and it was built by the farmworkers without 1 penny of Federal money or any kind of a Federal program or any kind of tax writeoff or subsidy or anything.

We have a credit union that lends more than $3 million of farmworkers' money to themselves, the first of its kind in the Nation. We have a service program in several States where farmworkers can go with their problems. We have a gasoline station where farmworkers can buy their gas cheaper than they can in town. We have a death benefit insurance program, which is also on a cooperative basis, when there is a death in the family. When you talk about farmworkers' income being only $2,000 or $3,000 a year, a death in the family can be a very devastating thing. We have a death benefit program where farmworkers can get $1,000 and a death benefit of $500 for each dependent.

We are beginning construction of the village, which will be a home for the retired Filipino workers who were left abandoned and could not marry because of discriminatory immigration laws and discriminatory State laws, so they could not marry Caucasians.

We have a medical plan in our union contract so we get full medical care, including hospitalization and maternity benefits, for working only 50 hours under a minimum plan and 250 hours under a major plan. This we have done without any help from the government. In fact, the government has been in opposition to everything we are doing. I am talking about the State government, I am talking about the Federal Government. Our obstacles are fantastic, and we are not saying this in the form of complaint.

We are willing to continue to do this to fight inch by inch for every contract that we have. We have had a little success and much publicized success and people think we are really much bigger than we are, so our opposition has grown.

The Farm Bureau Federation, who chose not to testify at these hearings, the National Right to Work Committee, are participating in a vendetta and a very big national program to destroy our union. They are trying to do this through legislation. They are trying to do this in terms of trying to set up legislation in every State which would outlaw the boycott and would install company unions in every State, and they have some of these unions ready to go.

I have submitted a group of exhibits here which will show the connection between Allen Grant, the vice president of the Farm Bureau, and his connection with the National Right to Work Committee and their written and publicized opposition to our union.

While these reactionaries express their intention very openly, it is amazing how many liberals or people who think that they know what is right for the farmworker have been duped into accepting their tactics to place farmworkers in legislation to restrict organizing and, therefore, make a solution that migrants' problems in farming are impossible to solve.

People have talked during the course of these hearings about the farmworker being placed under the national labor relations law. I heard Congressman Sisk, you know, he sort of hemmed and hawed when people asked him what about the violation of the cotton subsidy program. He never did give a straight answer to that one, but he was very adamant that farmworkers should be under the NLRB and therefore not have the right to boycott and therefore not be able to get contracts.

Even if we were placed under the national labor relations law, we could not have the help that other unions had when they were organizing. Thirty years ago when other unions were organizing, they could harvest strike, they could sympathy strike, they could not handle. They had many advantages; we have none of these advantages.

None of the labor unions that are now organized and are covered by the NLRB can help us. Even if they wanted to, they couldn't, because even if we had the Wagner Act, they couldn't help us; they couldn't handle; they could not sympathy strike; or they would not harvest strike; so any type of legislation such as the Wagner Act or the Taft-Hartley would put us right back where we are now.

The only thing we could do would be to conduct the boycott as we have been doing. When they talk about elections, you have a community climate in the State of California, that is, in rural California, anywhere in rural America, where a farmworker has no economic or political power. It would be impossible to get an election that would be fair to farmworkers. You can't legislate community climate, especially when it is organized, when it is a paid effort. The growers have complete control of the courts, the law enforcement, and other governmental bodies.

It is interesting that under the cotton subsidy investigations one of the men who was in charge of the program is one of the people who is in violation, Mr. Frick, and yet, you know, our legislators are supposed to represent us and they came to his defense.

There is an on-going conspiracy between the State government and I should say some of the Federal agencies with the growers against the farmworkers. We can point this out with Governor Reagan and his recent veto of the unemployment insurance bill which we fought very hard to win and which he vetoed, even though the small growers were in favor of this legislation.

There is no enforcement of the laws about children working or pesticides. Farmworkers can't expect to win in governmental bodies in California, I don't care how many laws are made.

I don't know if the committee has seen this. Senator I hope you have time to read this. This is a series of articles written by Ron Taylor of the Fresno Bee. This will open your eyes to the fact nothing has changed in agriculture, nothing has changed in agriculture; even the laws have been passed that are supposed to protect youth from working. The cynical attitude the Farm Bureau and the people who are supposed to enforce these laws have is clearly indicated in these series of articles.

The Farm Bureau and the growers are so confident that they have the rural communities tied up that they even publicize in the California Farmer instructions about how to tie up a local community. They say on the local scene you should contact the Chambers of Commerce, the JC's, the city council, the board of supervisors, all law enforcement agencies, the California Highway Patrol, all churches, all local unions, the school board, the real estate association, the PTA meeting, the telephone company, all media, the city and county health authorities, every merchant in the town, the welfare department, the Farm Labor Office, the district attorney, the chemical and fertilizer suppliers, and the labor contractors. This is an instruction on how to set up the citizens committee for agriculture to fight unionization.

Have a prior agreement on a procedure with the police, the sheriff and the highway patrol. Check with the school board to see if buses can be used on weekends. Have a committee member tell hotel and motel and roominghouses in advance what happens when Chicanos move in; they can and should refuse to rent to the union. This is exactly what happens.

Make sure the California rural assistance and the OEO understand in advance that the citizens committee is watching them like hawks. Tell them personally and repeatedly that no Federal employee's time, facilities, telephone, his paper, office, or even an old outhouse are to be used for any union activities whatsoever and make sure the public knows immediately about even the slightest violation.

Ask the county board of supervisors for additional funds for deputies.

This is in a published magazine. The Farm Bureau has given instructions to local communities on how to organize the communities to fight off the unionization of farmworkers.

As we win contracts, farmworkers don't have to be afraid of losing their jobs or being blackballed for political activity and then we will get enforcement of the laws because farmers will have the strength to defend themselves.

Just last week in Delano, which is a city of 16,000 population, the city council opposed our building permit to build the Agbayani Retirement Village. This is before the board of supervisors. They claimed that this would create urban sprawl. Union members went to that meeting and they had enough political prestige with the board of supervisors so that the board of supervisors finally gave us a building permit. But this isn't true where we don't have a union contract because where we do not have a union contract the farmworkers do not have the political strength.

We have had farmworkers shot in the face by labor contractors. They have been beaten by growers. They have been beaten by paid hoods. We can't get complaints signed against them. But in Salinas Valley where we had the labor strike, we had hundreds of workers arrested for picketing. Our director was thrown in jail for 21 days because he instituted a boycott. The court issued injunctions to prevent us from doing any kind of picketing, from even having one picket. So it is quite obvious that, unless we get unions, and farmworkers get strength in rural America, we are not going to get any kind of political justice; we will not get enforcement of any law, I don't care whether it is the 160-acre law or the cotton subsidy law or a child working law or the disability insurance law or anything.

The same legislators that have hurt farmworkers over the years, beginning with the bracero program, Public Law 78, are the same ones that are clamoring now to cover us under legislation that would take away the boycott. But it is quite clear to us and I think to everyone that the boycott is the only guarantee to win union protection and collective-bargaining contracts for farmworkers. We have won many strikes and we have gotten recognition of growers and then they have refused to negotiate and sign a contract. We had this experience with the Coit Ranch in Mendota, Abatti farms in Imperial, and the Nature Ripe and Driscoll strawberry corporations in Salinas Valley.

In Washington State, at the Yakima Chief Ranch we had a strike, an election. We won the strike and won the election, and we began to negotiate a contract.

In the lettuce industry we called a moratorium in the lettuce boycott on May 5, 1971. We engaged in 7 months of negotiations. To this day we don't have a contract and it looks like we will probably have to institute the lettuce boycott again.

There is something I want to note here also. It has been much easier to unionize the employees of the conglomerates and the larger corporations than of the small growers.

Part of this, of course, may be because of their vulnerability to boycotts, but another reason is because somewhere in their organization they have somebody who has some kind of a savvy about labor relations. They have somebody in their organization who understands that farmworkers should have a toilet in the fields and that farmworkers deserve some kind of humane treatment. We don't often have that experience with the small growers.

A farmworker is equally oppressed if he is being underpaid and has terrible working conditions from a grower that has 40 acres or one that has 40,000. The fact a grower is a small grower or a family farmer should not exempt him from having a responsibility to his laborers, and his workers are equally entitled to the provisions of the union contract.

I have here some pictures I would like to leave with the committee. This is farm labor housing which is really pretty bad. This belongs to a company called Berringer, up in the Napa Valley. It is a small wine company. This company is owned by Nestle's, which is a conglomerate. We have contracts with some of the Nestle's subsidiaries. In this case Nestle's is willing to sit down and negotiate a contract, but Berringer Bros. is holding out. I would like to leave these pictures with the committee to show the kind of housing these farmers have to live in and then housing the farmerworkers are living in at Christian Bros. where we have had a contract for several years.

In the Salinas Valley the only corporations that we were able to get contracts with in the lettuce industries are the conglomerates: United Fruit, Inter-harvest, Purex, and D'Arrigo, which is a very large, family-owned corporation.

In the wine industry we have had the same experience. We have contracts with Schenley, Paul Masson, which is Seagram, Almaden, which is National Distillers, Gallo, Hublein, Christian Bros.

We are having an awful lot of trouble getting the smaller companies to sign contracts, even though their workers want them, they want the contract, they come out on strike—they simply fire them.

It seems that the only way we can force growers who do not negotiate with their workers is to have a productwide boycott such as we conducted in the grapes, which took a tremendous amount of energy and time.

The role of the chainstore in the boycott has been raised several times during these hearings. Here, again, we should note that the trend toward monopolization by the grocery market by a few chains such as Safeway has set in pretty deeply. Agribusiness interests sit on the board of directors of Safeway. Safeway is producing many of the products that they sell, therefore competing directly with the growers that they buy from. The consumer does not have a choice about which products he wants to buy, Safeway makes that decision.

We insist that Safeway has a responsibility to the consumers and to the general public. We insist that Safeway should not sell products that have been gathered from the exploitation of farmworkers. We insist that Safeway has the responsibility to sell products that have been picked under sanitary conditions. If they have the freedom to grow and monopolize, they also have a corporate responsibility toward farmworkers who produce the food and the consumers who buy the food. If Safeway does not take the responsibility seriously, then the consumer should be free to boycott their stores.

In the area of food distribution, there has been a serious lack of total responsibility. It is sad to think that fruits are left lying in the field, such as peaches. This year, I think, there was something like a 60-percent peach drop in California. This was devastating to the growers; it was devastating to the farmworkers who went there to pick that fruit and had no work when they arrived, and also to the consumer who is having to pay a higher price for his canned peaches.

There were oranges which were left unpicked and other fresh produce was not harvested because there was no market price, yet the poor people in California, the people in the cities of America, cannot afford to buy food. They can't afford to buy fresh food, they can't afford to buy processed food, because the prices of food are set so high that if they have to make a choice between beans or meat and fruit, they have to choose the other.

I might say in many of these cases the grower doesn't have a thing to say about the prices set for the product. This is done completely by the chainstores. When you say to the growers: "Why don't you get together and bargain with the processors," they are afraid, they might not buy their product. It is sad to think they have the same right of bargaining power that the farmworkers have, but they are unwilling to organize to get their bargaining power going. They want to take their profits out of the sweat of the workers.

The role of growers, the shippers, the distributors, and the chainstores is not that of providing an adequate food supply for the Nation, but it is only geared to its methods to increase their own profits. So we have a dilemma of agricultural surpluses, hungry people in our land of plenty, and of giving away agricultural programs in amounts of billions of dollars to the already wealthy.

We think it is commendable of the Subcommittee on Migratory Labor that it should deal with other aspects of agriculture, where certainly one facet interlocks with the other.

At the lowest rung on the agricultural totem pole, the farmworkers need protection.

We need the freedom to continue the organization and unionization of farmworkers without legislative restraints.

We need protection from the mechanization that will place thousands of farmworkers on the already overflowing ranks of the unemployed.

Yesterday you heard testimony from Jean Lewis Floris about the situation in Corcoran, Calif., where the farmworkers are trying to get food stamps in Kings County. These are ex-cotton workers placed on welfare roles. She said 60 percent of the city is on welfare rolls. These are cotton pickers who were put out of work from one year to the next by the cottonpicking machine.

We have been able to prevent this, through the unions, to a degree in the wine grapes. They have developed a picking machine that is exactly like the cottonpicking machine. It throws everybody out of work. They only need one operator, and one machine replaces 40 workers.

In our contracts we have held back the use of that machine because the wine industry is making an awful lot of money. I think they are making very huge profits and they don't need that machine at this point.

We need exemptions from the wage freeze. Just as the growers are exempt from the price freeze, we think the farmworker should be exempt from the wage freeze because of their very low earnings.

We need to have the existing legislation enforced. We have had a difficult problem recently in trying to get local law enforcement and the Federal governmental agencies to investigate an assassination plot against UFWOC personnel.

I think, finally, we have to have some kind of financing that is available at low interest rates to farmworkers, to small farmers, for cooperative ventures.

It is unfortunate that small growers who are not unionized are so blinded with the bigotry against unionization, because we do have many, many problems in common—the lack of bargaining power and the lack of political power. But their attitude prohibits our working with them and it makes it difficult for the smaller growers who do want to work with the union because they feel they are taking sides and it makes it very hard to work with them. So we will have to wait until we find ways to unionize them, then we can start talking to each other.

Senator STEVENSON. Thank you Ms. Huerta.

I might just say, in response to one of your suggestions, that the phase II Economic Stabilization Act legislation, which Senator Taft and I both worked on in the Senate Banking Committee, does contain some exemptions, which I don't think go as far as you would like to have them go, but they do exempt those making poverty level wages and minimum wages from the freeze. And, of course, efforts now are also being made in the Congress to increase and to extend Federal minimum wage protections.

Ms. HUERTA. That, again, Senator, in the exemptions that now exist, I believe, if it is anyone who makes less than $1.60 an hour.

Senator STEVENSON. That is one of the exemptions.

Ms. HUERTA. The minimum is in our union contract. It is still a problem for farmworkers who are seasonal, for farmworkers we should talk about some kind of an annual rate. They don't live by the hour; they live by the year. We have to talk about the farmers' total income. The way they can jockey the records around, they can make it look like a farmworker in making $2 an hour. Our minimum wage in our contracts is only $1.90 and $2 an hour, except the wineries has been raised to $2.40 an hour. The rest we signed last year. This is still a poverty level for farmworkers.

Now, you have a class, all of the agricultural products are excluded from the price freeze, but the wages of the farmworkers are still frozen, and we think that is inequitable. That again is where you have the law working for one group of people and working against the other.

Senator STEVENSON. I tend to agree with you on that particular point. It was a point of concern to many of us in Congress, too.

The United Farm Workers Organizing Committee has been very active in organizing farmworkers for the purpose of collective bargaining and the improvement of working conditions, but do you think that a dream of the farmworker is not to work for a wage but it is to own his own land, and to farm it with his own hands?

Ms. HUERTA. It is a nice dream, but where do you get the money to buy the land? They can't even afford to buy cars to drive to work.

Senator STEVENSON. It is being done.

Ms. HUERTA. The kind of interest the farmworkers are charged, this is why our credit union is being part of the success. You know we have in the unions a checkoff, and we have lent $3 million of the farmworkers' own money to themselves.

Senator STEVENSON. The subcommittee heard testimony in Washington about a strawberry cooperative farming affect. Are you familiar with the Cooperative Campesina effort in Watsonville, Calif.?

Ms. HUERTA. That has Federal support. Everything the Farmworkers' Union has done we have done without that Federal money.

Senator STEVENSON. If the Federal programs are available, why shouldn't farmworkers take advantage of them, get the credit that they need both for the acquisition of land and equity, and become farm owners?

Ms. HUERTA. That would be beautiful, Senator, if it could become a reality.

Senator SREVENSON. In that one case in Watsonville it is a reality.

Ms. HUERTA. If, in fact, it would be enforced in that manner, because we find laws that are written in one way and when it comes down to the local level, again because of lack of political power of farmworkers, it is not enforced on behalf of the farmworkers; it is enforced on behalf of other people. I have no argument with that if that would really happen.

Senator STEVENSON. Federal programs won't really benefit farmworkers unless people want to make them operate properly. In the case of the Cooperative Campesina, existing Federal programs have been taken advantage of by people who wanted to make them work, and they are making them work. I regret to say it is happening nowhere else in the country, but it appears to be happening in this one case. It proves it can happen.

If there is more public interest and more public support for adequate credit facilities for farmworkers who want either individually or together to buy land and equipment and to go into business for themselves instead of existing as the dispossessed of the country as farmworkers, it might happen. You don't seem to be interested in those Federal programs.

Ms. **Huerta**. Why do you say that?

Senator **Stevenson**. You seem to be more interested and preoccupied with simply negotiating and improving the working conditions of wage earners.

Ms. **Huerta**. Senator, if we are having trouble getting wages of $1.90 and $2 an hour for farmworkers, if farmworkers are having trouble getting credit, as I just said, to buy a washing machine or buy food, and you are talking now about making it possible for them to get money to buy land, this is a beautiful dream and I think we have to be practical. If they borrow the money, they have to pay it back and they have to have the income to do it with. Sure, we are trying to get the political and economic power for farmworkers, that is our whole aim, but first things come first and you have to be able to, first of all, get the people together. If we would have waited for some Federal agency to establish a clinic for farmworkers—the farmworkers could have some say-so in determining this is important. Farmworkers have self-determination in saying what is going to happen with their programs.

Senator **Stevenson**. I think what you are saying is you have such horrendous problems that it is really hard to see beyond the problems of the farmworkers. You have an immediate job to do. You have plenty of work cut out for you, negotiating, organizing farmworkers, without trying to develop cooperatives.

Ms. **Huerta**. We do have some cooperatives developed, Senator. They are not on paper, they are working, they are real, they are actual. Our clinic is a cooperative.

Senator **Stevenson**. I am speaking of farming cooperatives.

Ms. **Huerta**. I am saying they have been done without any false support. They will stand whether we get money from OEO or from the Federal Government or anybody. They are standing on their own because the farmworkers are paying for them and making them run.

Senator **Stevenson**. Are you against getting help for a cooperative clinic from HEW or from OEO and, if so, why?

Ms. **Huerta**. Sure we are, because at this point they would be determining the policies and what would be done in that clinic. Farmworkers should have a voice in determining the policies of their own establishments.

Senator **Stevenson**. I think they are in the case of Cooperative Campesina.

Ms. **Huerta**. We will wait and see what happens. I think it just started.

Senator **Stevenson**. Normally after the debt services, the payments on their mortgages, the families are each, I am told, making about $10,000 a year from strawberries and zucchinis.

Ms. **Huerta**. We will see what happens. We have had a lot of experience in organizing farmworkers and working with people, I guess probably more than anyone in the country, but we also find when you start a cooperative venture or any kind of a program and something happens, the money is cut off and they can't continue, it is very devastating because the people lose hope. They don't really learn how to run that business or conduct it properly and solidly so it will continue without the false financial support. This is our concern.

We don't want to lie to people in any way. If we start out a program, we want to make sure it is going to stand up and they are going to run it in all the programs we have as we go along between farmworkers' programs. This is extremely important because, if not, you become just another charitable agency that is doing things so called for people without having their participation or without having them review it. People have to learn the hard facts of life and the hard facts of life are the economic facts of life.

Senator STEVENSON. I think one of the facts of life, too, is that, given a chance to start and stand on their own two feet, people will rise to meet new challenges.

Ms. HUERTA. We are doing that, Senator, Our union was built by farmworkers and farmworkers who sacrificed tremendously. They had to give up their homes and their cars. People in our union do not receive salaries. We are still dependent on charity and contributions. They have learned this as a way of life; the poverty and the struggle are a way of life, and they are not afraid of it. I am not sure that people who work under a program that is federally financed are learning that.

Senator STEVENSON. We are interested in the changing face of rural America. In many ways it is changing. One of the most obvious changes has been the advent of large agribusinesses in farming. You indicated earlier that you have been more successful in obtaining contracts with agribusinesses than with individual or family farmers. Why is that?

Ms. HUERTA. Usually because, as I say, in the corporation's structure they usually have contracts with other unions and so they have a better idea of what human relations and labor relations are, so usually somewhere in that corporation they will refer to an individual or they will bring in an individual who has some savvy about labor relations and so you can get to the point where they will negotiate a contract.

With a smaller grower, they take strictly a negative attitude and they won't come in until they are forced to.

Senator STEVENSON. Let me put a hypothetical case to you. First, take a farmworker working without a contract for a conglomerate, a big corporate farmer, and secondly a farmworker working without a contract for a family farmer—a typical situation in each case. Which farmworker is better off and happier?

Ms. HUERTA. It is hard to say, Senator.

Senator STEVENSON. Is there a difference?

Ms. HUERTA. The farmworker in the State of California who earns the least amount of money right now is probably in Fresno County, which is the county that has the largest number of small growers, and the wages there for farmworkers not under union contract are very, very, miserable. You know, they are almost serfs. In addition to this, they have to compete with the illegal aliens which the smallest growers are the biggest violators of hiring. I am saying this situation is not much different.

I wish you could have gone yesterday when you were in Fresno to some of the homes because you would have been shocked. You would have seen conditions you expect to see in the South where farmworkers live in North Carolina and Florida and other places, you would have seen the same situation. We have the situation in Fresno County where the local farmowners will go to the welfare department and get people knocked off of their welfare.

It is a very bad thing that is happening there. I don't know how we can change the psychology of small growers, not everybody, but I think most of the small growers.

Senator STEVENSON. He is trying to survive, isn't he?

Ms. HUERTA. He is not surviving, he is blaming us. We are not to blame, other people are to blame, but he wants to take his profit out of the skin of the farmworker.

Where we have signed contracts with the small growers, there our relationship is pretty good. Recently the Hublein contract we negotiated, the union negotiated a premium rate for the small grower. We told Hublein any grower who signed a contract with the union should get a premium price. I am sure if the small grower in Fresno County would organize into cooperative marketing, even if you cut off all the subsidies of conglomerates, they would still be a small grower. They can't fight that battle, they are too busy fighting us.

I don't know how to reach them, but maybe, Senator, some other groups can find some way to reach them. We tried.

Senator STEVENSON. Do you have any way of estimating how many illegal entrants there are working in California agriculture?

Ms. HUERTA. It runs into the hundreds of thousands, Senator. I have a document in my briefcase and I can give it to the committee. This was a study made by the Los Angeles Times and it is interesting to note that our State senators, like Senator Wake of Kern County, came up publicly and told growers how they could get around the law of hiring illegal aliens, just as the Department of Agriculture came out and told the growers how they could get around the cotton subsidy programs. This is an instruction by the local State legislators to the grower on how they can avoid the law.

Senator STEVENSON. As you know, the state of California has changed the law to make it, for the first time, unlawful to knowingly hire an illegal alien. That law has not yet become effective, but it will soon. When it does become effective, what will the results be, will it solve the problem?

Ms. HUERTA. It depends on the enforcement, Senator. As I said, Senator Wake already told the growers in a newspaper article how they can avoid the law.

Senator STEVENSON. The new law?

Ms. HUERTA. The new law, right. I don't know if we are going to get any enforcement.

In the testimony I mentioned the Coit ranch, where we had a strike on the melons. That employer was hiring over 250 aliens, wetbacks, people who had no residential papers at all. We went to the border patrol, we picketed, they made fun of us. They said, "Mr. Coit has a tie-in with the Immigration Service." We tried for almost 7 days. The only way we finally got action out of the border patrol and the Immigration Service was to call Congressman Philip Burton in Washington. When we called Congressman Burton, we had the border patrol out here within 3 hours. Then we found that the man had concealed compartments in the bunkhouse, in the roof, and in the basement to hide the aliens. Before the border patrol got there, someone went over to advise them, so they got away.

Senator STEVENSON. How much were they being paid?

Ms. HUERTA. They were working on a piece rate then and the local workers had come out on strike to get a union contract and so Mr. Coit brought in a lot of illegal aliens to break the strike. It was a piece rate they were being paid at that time.

Finally, after the Immigration came in and pulled out the illegal aliens, Mr. Coit sat down and we signed a recognition agreement and we negotiated a wage. We still don't have a contract with the company.

Senator STEVENSON. Senator Taft.

Senator TAFT. Thank you, Mr. Chairman.

Miss Huerta, you mentioned the boycott prohibition in the National Labor Relations Act. If the boycott provisions were entirely eliminated from the National Labor Relations Act, would you want to be covered by the National Labor Relations Act.

Ms. HUERTA. I think that the procedures, as they are now being practiced under the NLRB make it very cumbersome for a union to be able to get an adequate representation procedure and adequate collective bargaining procedures, because when you have, such as we have, a very active opposition by the Farm Bureau, by the National Right to Work Committee, when they are setting up committees particularly in their areas and there are many types of movements from the grower, and the Farm Bureau and the Right to Work people come to that grower and say, go sign a contract, we will help you. You have this kind of opposition. They will use all of the maneuvers, the bureaucratic maneuvers of the NLRB, in keeping them from signing contracts.

You are aware of the fact labor unions in the South covered by the Board, labor unions in California, such as the Oil and Chemical Workers, who tried to sign contracts with pesticide companies, have had a difficult time under the NLRB procedures. Because the way they are now being administered, it would take forever to get a union contract.

Senator TAFT. You would not, your answer would be no, then?

Ms. HUERTA. I would say the way they are administered, it would be no.

Senator TAFT. To leave the labor area for a moment and to go to the other piece of legislation that is pending do you have any feelings relating to collective bargaining of producers with big purchasing organizations?

Ms. HUERTA. I think I would have to see the farm growers behind it. I don't think they are doing the small growers any favor. Recently they had a cling peach bill in the State of California which would have given, I think, money protections to the smaller peach growers put out of business by Del Monte. The Farm Bureau and Del Monte opposed that particular piece of legislation.

I think that if the smaller growers can organize themselves to the point where they can bargain with the markets over the processors, I think it would be very commendable. I know for a fact in the winemaking industry there is just no reason why the small growers can't get more money for their product, except they are too busy fighting with each other and fighting with the union. Because the wine grape industry, the wineries, the distilleries, are making an awful lot of money, but that money is not coming to the little growers. It is because they are completely at their mercy. They are given a price and they sell at that price. If they want to make any extra profit, they take it out of the skin of the farmers.

Senator TAFT. There is a provision in that legislation requiring the purchaser to negotiate exclusively with the group that is formed and recognized, in effect, and not to negotiate with any other grower outside. In fact, it is a closed-shop type of provision. Would that affect your opinion?

Ms. HUERTA. It depends on who is in control of the closed shop. In the closed-marketing order there you have Sunkist, which is one of the larger conglomerates that controls all of the orchard production.

Senator TAFT. That is a cooperative, is it not?

Ms. HUERTA. Right, but Sunkist happens to control it and they also then dictate the terms of when, how much, every independent orange producer can produce.

Senator TAFT. Am I correct in saying that Sunkist is a growers' association?

Ms. HUERTA. In that organization they also have small orange growers; then, of course, they compete with other independent orange growers that are not a part of that cooperative, but the small independent orange producer has a difficult time competing with Sunkist. You have to be careful, I think, when you talk about that type of legislation, that you are not really legislating a monopoly.

Senator TAFT. Now, to move back to the first subject I talked about, you stated in your testimony that you felt that the coverage by the National Labor Relations Act would prevent a product boycott?

Ms. HUERTA. Yes.

Senator TAFT. Do you think that is true? I understood under the protections of freedom of speech that a product boycott, as such, would necessarily be permitted, even under the National Labor Relations Act today.

Ms. HUERTA. That would be subject to interpretation. It might be interpreted to mean, if we were trying to get a contract with Berrington Bros., which is a winery, and a subsidiary of the Nestle's Corp., if we might boycott Nestle's, since people don't know who Berrington Bros. is, that might be construed as a secondary boycott.

Senator TAFT. That would be a boycott against the company and not against the product.

Ms. HUERTA. Nestle's is a product: it is a chocolate candy bar.

Like at Del Monte, if you wanted to organize their peachpickers, and we had a boycott against Del Monte canned foods as a product, that might be interpreted to be a secondary boycott.

Again with the chainstores in the bay area, where Safeway controls about 50 percent of the market, if you don't get Safeway to cooperate, you don't have a boycott. If we picket Safeway stores, that might be construed to be secondary boycotting.

Senator TAFT. That might be. But picketing of the product might not be. That is the point I would make.

Ms. HUERTA. I don't know. We certainly need all of these weapons.

Senator TAFT. Would you favor the workers whom you represent as being covered by the Federal minimum wage law?

Ms. HUERTA. They are covered but it doesn't do any good because it isn't enforced. They say the laws are put away so they won't wear out.

I know in the counties some people were picking cherries and made 65 cents an hour. There were no funds in that field. I was told as soon as I went into the field that I didn't have to work with some black people who were there. They said, "You don't have to work next to those niggers if you don't want to." The Mexicans were all put into the bad field and the Anglos who came down to pick cherries were put into the good field. This is the kind of jungle it is out there.

Senator TAFT. The answer to my question, I take it, would be, then, if you had a Federal minimum wage law that you thought would be enforced, you would want to be covered, is that correct?

Ms. HUERTA. The only way we can enforce it would be if we had union contracts.

No, I think the Federal minimum wage law should be passed because eventually the union will arrive and we will get enforcement and the law will be on the books. You should be working for Workmen's compensation in other States because somebody, some farmworkers, even if it is only a handful, will get those benefits and it is a door opener.

Senator TAFT. The minimum wage law has been effective in its enforcement in some areas where no union contracts were involved.

Ms. HUERTA. I don't know of any.

Senator TAFT. Rather strict penalties have occurred involving the amount of backpay that has been involved in nonunion situations throughout the Nation.

Ms. HUERTA. I am glad to hear that because I have an article here that just came out about the lack of enforcement of the minimum wage. I will leave that with the committee also.

They found where places in Texas, farmworkers were still earning only 29 and 49 cents an hour.

Senator TAFT. I doubt if they are under the minimum wage law. I question your earlier statement that most of them are under the Federal minimum wage law. I think most of them are not.

Ms. HUERTA. Most of the farmworkers are not?

Senator TAFT. Yes.

Ms. HUERTA. That may be. I thought many were covered. In the State of California where we do have the State minimum wage law, that is not being enforced.

Senator TAFT. What do you see as the future of the migratory labor problem? Do you continue to see migrants, as such, fitting into the picture or are we talking rather about farmworkers within limited periods of residence or limited distances from their residences.

Ms. HUERTA. I think, if unionization is allowed to continue, and that depends a lot on you gentlemen in Congress and the State legislature, that we will see an end to the migrant scene. In Delano, which is where we have been active the longest, there have been about five housing developments that have been built, both public housing and private housing and self-help housing, and farmworkers have settled down. If you could know the individuals that we knew who came from Juarez, who came from Florida, who came from Texas to Delano to work, because the union was a support, a base, something they could look into. We were given seniority rights in the contract so they have the right to their job when they come back so eventually they settle down. The turnover in the ranches where we have union contracts has been cut down tremendously. The first year of the contract we have a lot of turnover. By the second year and the third year we have a stable work force.

Right now at the Schenley ranch I would venture to say there has been a 10 percent turnover, and the Gallo ranch likewise. If the migrant people will settle down and be in the community, they will spend their money in the community.

Senator TAFT. I take it you feel that is desirable and I am inclined to agree with you, but let's take it back to my area of the country, northwest Ohio, where you know migrant workers are used for particular products. I wonder if your position on mechanization would apply in that circumstance or would you say that it would be better in some ways to mechanize and eliminate the migrant nature of the problem. Would it be better to try to provide the people who are out of a job as a result of mechanization with some resettlement or some method of earning a livelihood without being in the migrant status?

Ms. HUERTA. I don't know what the employment rate is in your State, Senator. I know the wages are pretty bad in your State. They are probably the lowest in the Nation. If you have high unemployment and good wages, people come to work. That has happened in California. People are coming back to farmwork. We have high school dropouts and graduates, people who have gone to Los Angeles and San Francisco to work in the cities, who come back to Delano.

Senator TAFT. What I am trying to determine is your assessment of whether you feel we ought to continue to rely on migrant workers even under contracts at sound rates of pay, or whether the migrant in the problem is something we ought to phase out if we can provide other means of handling the types of products involved.

Ms. HUERTA. Again, you are talking about people versus machines. If you have people unemployed in the State and they can be put to work at an adequate wage, that would be better for everybody.

Senator TAFT. That has happened, of course. Many migrants have come and stayed in Ohio and worked in industry.

Ms. HUERTA. That is what has happened and it will happen in agriculture also, you see. Once the social stigma and the slave wage and the slave attitude is removed from that, people will go back to farmwork. You know, right now, if our farmworkers——

Senator TAFT. The problem in Ohio, as compared to California, is that farmwork is far more highly seasonal.

Ms. HUERTA. It can't be any more seasonal than in the wine grape industry.

Senator TAFT. There are other industries, farming industries, which have an on-going need for labor throughout the year, at least more throughout the year in California than there are in the climates like Ohio.

Ms. HUERTA. How many months of employment are there?

Senator TAFT. Probably about three.

Ms. HUERTA. We have to look at the situation. I am pretty sure it could be worked out where local people could do that work eventually or the migrants who are migrating would settle down and do it.

Senator TAFT. Thank you very much.

Senator STEVENSON. Ms. Huerta, I wish we could continue this conversation. It is now 1:50 and our afternoon session was scheduled to start a half an hour ago. We are running about an hour and a half behind schedule.

I thank you very much for joining us and helping us. Your statement will be entered in the record along with any exhibits or other materials you want to submit with it.

Ms. HUERTA. I would like to leave this book that has a foreward by Senator Fannin. It is a very vicious book against the union and Caesar Chavez and some corresponding exhibits to talk about it.

I would like to furnish the committee with some information of the involvement of other giant corporations that are in this fight against the union, helping canners and growers to love the corporations, and many others that are contributing to this big fight against us.

(The prepared statement, exhibits, and other information submitted by Dolores C. Huerta follows:)

PROBLEMS IN ORGANIZING FARMWORKERS

UNITED FARM WORKERS ORGANIZING COMMITTEE AFL-CIO

Throughout the years that hearings were held on the problems of migrant farmworkers, the progress of resolution of these problems was almost nil. Everyone grieved over the problems of the farmworkers and hoped and prayed that something could be done. At last the miracle occurred—a leader arose from the farmworkers and they rallied around him and the ice was broken for the end of the oppression and exploitation of farmworkers through the development of the Union.

Lets just have a resume of the results:

A. 20,000 farmworkers in California, now covered by union collective bargaining agreements, have a guaranteed minimum wage of $1.90, $2, and $2.40 hourly minimums. Yet in areas in California where farmworkers do not have the protection of UFWOC contracts, they are earning $1.50 to $1.64 per hour and as little as 50 cents and 65 cents an hour on piece rates. Assemblyman Ketchems Committee on Agriculture reports that farmworkers covered by union contracts earned twice as much money as those not covered. (see exhibit 1).

B. Union members have protection from discharge.

C. Seniority rights are held by the worker.

D. They have a grievance procedure.

E. There is the elimination of child labor in the fields where we have union contracts.

F. There is protection from Pesticide poisonings.

G. The labor contractor or "crew leader" system has been eliminated through the establishment of the hiring hall.

H. There is enforcement of Sanitation Laws (i.e. toilets in the fields), drinking water, hand washing facilities, protective clothing.)

Other benefits that a union member has includes a medical plan that covers farm workers and their families with doctors visits, prescription care, maternity benefits, hospitalization benefits and laboratory tests. There is a minimum care plan for workers that work only 50 hours and a larger plan for those that work 250 hours (one month). In addition to this there have been two farm worker clinics built—one in Calexico and one in Delano—which are full-time clinics with full time staff that are seeing union members daily.

A farm workers Credit Union, that has made loans of more than a half a million dollars of farm workers money to farm workers. The first of its kind in the United States, it was established in 1963 before any union contracts were obtained. The Credit Union is staffed with farm workers who do the accounting and it is directed by farm workers.

There is an on-going service program for farm workers in six states; California, Arizona, Texas, Florida, Washington, Oregon, and New York. This program helps the farmworkers with their miscellaneous problems. This includes helping them deal with other agencies.

The cooperative gasoline station is another service provided by the union.

The union has a death benefit insurance program that covers all members and their dependents—$1,000 for the member and $500 for each dependent in case of death. This benefit is available to members whether or not they are covered by the collective bargaining agreements.

The first retirement village for "worn out" farmworkers was established. The Agbayani Village, in Delano, is for Filipino farm workers who are now destitute, alone victims of the racist California Laws and Immigration Laws which forbade Orientals to marry Caucasians and therefore destined them to live as labor slaves in labor camps without wives or children and to face their retirement years as forgotten men.

All of the above programs have been achieved without government subsidies or Federal funds of any kind.

This has been achieved for only 20,000 workers in the States of California and Arizona—less than one tenth of the labor force of these two states. As I said earlier we have barely scratched the surface and the most bitter part of this is the reflection of the titanic struggles that the farm worker's union has had to make for every inch of success. A victory that would not have happened had not farm workers left their homes to go to every major city of the U.S. and organize support of the people of good will to support our struggle through the non-violent action of boycotts.

This is not said in the form of a complaint. UFWOC is prepared to continue the contract by contract fight for the rights of workers. But there are those forces who are against the farm workers having a decent way of life or the self-determination of their own union. They are trying to handcuff the efforts of the farm workers by the legislative process. These organizations are against farm workers having even the basic human minimal protections that are needed for them to perform the work for their agricultural employers.

Throughout the history of California the same giant corporations which have dominated this state's economy and are part of the agribusiness establishment—corporations like PG&E, Bank of America, DiGiorgio Corp., Calif. Canners & Growers, Del Monte (formerly Calif. Packing Assoc.)—have given *both* financial and moral support to movements and organizations—like the Associated Farmers, the Calif. Farm Bureau, the National Right-to-Work Committee, and the various grower and corporate opposition groups the UFWOC has encountered in the San Joaquin Valley in the last six years—who have actively sought to deny farm workers the right to organize and destroy their union.

The Farm Bureau Federation in National Right to Work Foundation, the John Birch Society and growers, have joined together to propose and promote legislation that would establish organizations that are sympathetic to the growers and that would not represent the needs of farm workers.

It is interesting to note that the Farm Bureau Federation and their so-called "Citizens for Agriculture" committee actively opposed unemployment insurance coverage for farm workers in the state of California, and the participation of the State Department of Public Health in establishment of pesticide regulations. They claim to be concerned about the rights of farm workers to choose their own representatives, yet their real intent is to stop the unionization of farm workers, as you can see by the enclosed documents.

While these reactionaries express their intention very openly, it is amazing how many "liberals" have been duped into adopting their tactics to place farm workers under legislation that would restrict organizing, and therefore, make the solution of the myriad hardships that farm workers suffer daily impossible.

I do not think that you can legislate community climate and community activity against UFWOC, especially when it is a paid, organized effort. There is complete control of courts, law enforcement, and other governmental bodies by growers. The on-going conspiracy between the government and the growers is evidenced by Reagan's veto of our hard-won measure (unemployment insurance for farmworkers) that passed legislature. There is lack of willingness to enforce laws that are supposed to protect farm workers (i.e. sanitation, pesticides, illegal aliens, children working, minimum wages, workman's comp., etc.). All of this clearly shows that farm workers cannot expect to win justice through governmental bodies in California. So confident are the Farm Bureau and the growers that they have the rural communities tied up, that a recent publication in the California Farmer tells growers how to establish citizens committees. And I quote from Exhibit two—(outlined paragraphs of article.)

As union contracts are won and farm workers do not have to fear being fired from their jobs or black listed for political activity, they will have the strength to defend themselves in their community. An example of this happened in Delano, California, a city of 16,000 population. The city council opposed the permit to construct the prior mentioned Agbayani retirement village because they said it would create "urban sprawl". As this site was to be outside of the city limit, the union members had enough political prestige to the Kern County Board of Supervisors to offset their opposition.

However, in areas where the collective bargaining agreements have not been won, the situation is just the opposite. Farm workers shot and injured by labor contractors and growers can not get the local District Attorney to issue complaints against their assailants. Yet, in the Salinas Valley hundreds of farm workers were arrested for picketing, and our director Cesar Chavez was jailed for instituting the boycott after the local courts issued injunctions that prevented all picketing.

It is unbelieveable to the farm workers that the same congressmen and state legislators that are complaining about the use of the boycott as a non-violent tactic and that are clamoring for legislation to eliminate the boycott, are the same men who came quickly to the defense of the growers who are being investigated for the blatent cheating and embezzelment of taxpayers money under the cotton sudsidy program.

These same legislators and growers have never done one thing to help farm workers and in fact have over the years beginning with the bracero program Public Law 78, heaped tribulation after tribulation upon the local farm workers.

But it is quite clear that the boycott is the only guarantee to gain union protection for farm workers. There have been many instances where after a successful strike, growers have agreed to give the workers recognition and have refused to sign collective bargaining agreements after the workers returned to work and finished picking the crop—examples of this are the Coit Ranch in Mendota, California; Abatti farms in Imperial (both melon growers); and the Nature ripe and Driscoll strawberry corporations in the Salinas Valley. In addition to these there are many others. In some of these secret ballot elections were held, such as the Yakima Chief hops ranch in Washington State, and the union won an overwhelming majority, but we still do not have a contract because Mr. Dan Gannon stalled the negotiations until he could replace the striking work force.

In the lettuce industry, we called a moratorium of the lettuce boycott on May 5, 1971 and were engaged in negotiations until a couple of months ago. It is quite obvious to us at this time that the lettuce growers are not negotiating in good faith after seven months of negotiations, and we are faced with the prospect of having to reinstate the boycott against them.

It is rather interesting to note that the large corporations and conglomerates have been easier to unionize than the smaller growers. The farm worker is equally oppressed if he is being underpaid and had terrible working conditions under a grower who has 40 acres or one that has 40,000. The fact that a grower is small should not exempt him from having a responsibility to his labor force and his workers are equally entitled to the protections of a union contract.

Using the Salinas Valley as an example, the only farm workers in the lettuce industry that have the protection of a bona-fide union contract are the employees of the large corporations, Inter-harvest (United Fruit), Fresh Pict (Purex), and D'Arrigo. Likewise in the Eine grape industry—Schenley, Paul Masson, Almaden (national distillers), Gallo, Hubblein, Christian Brothers.

It seems that the only way to force growers who do not have brand names to recognize and negotiate with their workers is to have a product wide boycott, such as was conducted in the grapes and will have to be resumed in the lettuce industry.

The role of the chain store in the boycott has been raised several times during these hearing. It is noteworthy that here again the trend is toward monopolization of the grocery market by a few chains such as Safeway. Agribusiness interests sit on the board of directors of Safeway, Safeway is also producing many of the products that they sell therefore competing directly with the growers they buy from. The consumer does not have a choice about what product she wants to buy or how much she is going to pay for it. Safeway makes that decision for her. We insist that Safeway has a responsibility to the consumer and to the general public. We insist that Safeway should not sell products that have been gathered from the sweat of exploitation of farm workers. We insist that Safeway has a responsibility to sell products that have been picked under sanitary conditions and are free from pesticides. If they have the freedom to grow and monopolize they also have a corporate responsibility that towards the farm workers who produce the food and consumers who buy the food. If Safeway does not take these responsibilities seriously the consumers should be free to boycott their stores.

In the area of food distribution, there has been a serious lack of total responsibility. It is distressing to think that fruits are left rotting in the field such as the peaches which in California there was 67% peach drop, oranges which are left unpicked, other fresh produce that is not harvested because there is no price. Yet the poor masses in America cannot afford to buy fresh produce or many of the canned products because the grocers price the food above their income range. The goal of the growers, the landless shippers and distributors, the chain stores is not on providing an adequate food supply for the nation, but in finding methods to increase their own profits. So we have the dilemma of agricultural surplus, hungry people in a land of plenty, and give away agricultural programs in amounts of billions of dollars to the already wealthy.

We think it is commendable of the Sub-committee on Migratory Labor that it should deal with the other aspects of agriculture, for certainly one facet interlocks with the other.

As the lowest rung on the Agricultural totem pole, we need some immediate protections:

1. The freedom to continue the organization and unionization of farm workers without legislative restraints.
2. The protection from wanton use of mechanization that will place thousands of farm workers on the already overflowing ranks of the unemployed.
3. Exemptions from the Wage Freese as Agriculturalists are exempt from the Price Freeze.
4. The enforcement of existing legislation that is supposed to protect farmworkers.
5. The need for government and law enforcement to adequately protect UFWOC personnel from assassination.
6. The establishment of financing availability for cooperative ventures.

It is unfortunate that the smaller growers that are not unionized are so blinded with their bigotry and unreasonable attitudes against the unionization of farm workers, as we have so many problems in common and so many common interests that we should unite for our joint survival. But as their attitude prohibits our working together with them, and it makes it difficult for those smaller growers who are under union contracts to work on the major problems facing the family farmer, in conjunction with the Union.

LIST OF EXHIBITS

1. Assemblyman Ketchum's committee on agriculture reports that farm workers covered by union contracts earned twice as much as those not covered.
2. Advice on how to form a "Citizen's Ag. Committee" demonstrates how to manipulate the climate of a community to fight unionization.

3. Allen Grant, President of the California Farm Bureau Federation, is also a trustee of the National Right to Work Legal Defense and Educational Foundation Inc. The California Farm Bureau Federation is an outspoken advocate of farm labor legislation designed to handicap organizing efforts in the state of California.

4. California Farm Bureau Federation's official positions regarding farm labor legislation introduced in the 1971 California Legislature.

5. The National Right to Work Committee is involved in partisan solicitation of funds through U.S. senatorial offices.

6. Letter from Reed Larson, Executive Vice President of the National Right to Work Committee, soliciting funds.

7. A Right to Work publication attacking U.F.W.O.C. A.F.L.-C.I.O.

8. Reed Larson, National Right to Work Executive Vice President, directs all "association executives" to campaign against Cesar Chavez.

9. Melchor O'Campo, spokesman for the National Right to Work Committee in California agribusiness, campaigns against U.F.W.O.C. A.F.L.-C.I.O.

10. Melchor O'Campo admits membership in the John Birch Society, digs up old charges of communism, and works with growers and anti-union legislation to fight unionization

11. Election in the field. The *company union*.

EXHIBIT 1.—AMOUNT OF TOTAL CALIFORNIA EARNINGS BY TYPE OF LABOR

[Percentage Distribution of a weighted 1 Percent sample of workers with $100 or more California farm earnings in 1965]

Total earnings in California	Type of labor					
	Total	Hand	Machine	Hand and machine	Other	Unknown
Total, number	4,867 [1] (100.0%)	3,126 (73.8%)	375 (8.9%)	533 (12.6%)	201 (4.7%)	632
Total, percent	100.0	100.0	100.0	100.0	100.0	
$100 to $499	25.4	30.1	4.3	13.7	17.1	
$500 to $999	16.1	18.2	12.3	11.8	6.6	
$1,000 to $1,999	19.1	21.9	17.2	23.2	10.3	
$2,000 to $2,999	13.7	13.0	19.4	15.2	14.8	
$3,000 to $3,999	10.4	9.4	12.6	15.1	9.8	
$4,000 to $4,999	6.9	4.0	11.6	13.0	9.8	
$5,000 and over	7.6	3.4	22.6	8.0	31.6	
Median earnings	$1,388	$1,065	$2,895	$2,072	$3,109	

[1] Workers for whom information is not available are excluded from computation of percentages.

Note.—Percentages may not add to totals because of rounding.

EXHIBIT 2

[From the California Farmer, Sept. 4, 1971]

HERE IS HOW TO FORM A CITIZEN'S AG COMMITTEE

What do citizens do if they want to help agriculture? Following recent stories urging growers and their families to get involved, *California Farmer* had requests for how to do it.

To try for some answers, we went to J. Mario Marty of Salinas who has headed his local Citizens Committee for Agriculture for some time now and has just recently taken on the added task of chairman of the newly organized Western States Citizens for Agriculture with nine chapters in three States.

First off, Marty is not a grower. In fact, he is general manager of World Tours in Salinas. The purpose of the new Western group is to act as a clearing house and central source of information for use by anyone who is interested in the fight against Cesar Chavez, Delores Huerta and the committee they head.

On the local scene where the group has functioned a little longer, Marty and his workers have established committees, which in turn are responsible for establishing contacts in:

The Chamber of Commerce and the Jaycees, all service clubs, City Council and Board of Supervisors, all law enforcement agencies including the California Highway Patrol, all churches, all local unions, the school board, the Real Estate Association, the local Bar Association, P.G. & E., and the telephone company, all media, city and county health authorities, every merchant in town, individually, the welfare department, farm labor office, the district attorney, all feed, seed, chemical and fertilizer suppliers and labor contractors. A special committee works directly with grocery stores if and when a boycott hits.

It is the committees' responsibility to establish contact within each of these groups, as well as any other interested organizations. If UFWOC makes a move, a telephone campaign has the entire community alerted in minutes. If UFWOC pickets are established, counter-pickets, armed with cameras and tape-recorders are on the spot immediately.

If you have a committee in charge of each of the above (it could be a committee of one), it is the nucleus of a Citizens Committee for Agriculture.

Upon trying to organize, a finance committee is essential. Have a CPA set up an account, to take donations payable to "agricultural advertising." Then, begin an immediate fund-raising campaign for a war-chest. When money is needed, there is no time to collect it. Have it ready, is Marty's advice.

If you have a large group, you'll need a legal counsel, and he'll probably advise you to incorporate as a non-profit organization immediately. This spreads personal risk and enables an organization to receive and dispense funds more easily.

A lawyer who understands your function must be lined up. Key members of the committee must have the attorney's home phone number available and ready for use.

Have restraining order papers and injunction requests lined up and prepared in advance. Decide ahead of time who will serve the injunctions, who will take pictures of pickets being served.

You must have a place from which to operate with several phones. Peak hours will be 4:30 a.m. to 8:00 a.m. for the field trouble, and then late in the afternoon for information clearing.

You'll need your office equipped with maps, telephone lists, bumper strips, flags, office supplies, English and Spanish copies of contracts, committee contacts and documented information ready for immediate use.

Line up volunteers in advance to man telephones and help direct police, workers, newsmen and others to the right fields. Have people ready to run off material, make signs and handle money. Have a contact for the news media who is readily available so media people will return for stories.

It will take at least one person to work full time. This may have to be a paid employee. So have the money ready for a salary. It takes one full time employee to provide continuity, channel volunteers, squelch rumors and take the responsibility of keeping the office functioning.

Have all car radios listed and alerted. Funnel calls from the Citizen's Committee to the base and then to men in the field if there is no base set. The most important thing is to make sure your chain of command is clear. Do instructions come from individual companies or from the Citizen's Committee office? Make sure everyone knows the deal. Be sure all lines will be monitored. So be ready. This includes sheriff and police.

Set up trouble shooters in advance. Somebody needs to keep farming. So make it clear who will be free to ride shotgun on UFWOC bands. Know in advance who is to do what.

Have a prior agreed upon procedure with police, sheriff and highway patrol. Who is to receive your trouble calls in each outfit? Know which law enforcement agency handles each type of situation, so time is not wasted. Get the call to the right party the first time.

Have the names and numbers of news media listed and ready in your headquarters and keep stories going in. Check with the school board to see if buses can be used on weekends if they are needed, but do it in advance.

Have a committee member tell hotel, motel and rooming house operators in advance what happens when Chavez moves in. They can and should refuse to rent.

Establish contact with labor contractors to see when they need housing. Make sure housing owners know who your contractors are, so they can call direct if necessary on short notice to get rooms for willing workers. Keep close track of who's staying where. Alert county health and city zoning authorities about people sleeping in cars, jamming into rooms with inadequate toilet facilities and creating fire hazards.

Screen requests for use of public facilities carefully, and see to it that large gathering ordinances are observed. Be ready to create counter-news. If UFWOC has a rally, have pro-grower news ready to go. See to it the media at least splits the space or time. Do not let UFWOC have a monopoly on news.

Try to keep local farm labor offices open and functioning. Don't let UFWOC shut them down. It is hard psychologically for the worker, and you may end up running a work referral business yourself. If UFWOC pickets the farm labor office, send MORE people through. Use security guards right there if necessary.

This requires having security people lined up in advance. They should be available 24 hours a day on duty at camps, labor offices, in the field, and at all entrances. Companies should have their security lined up immediately. Keep local police advised about who you are using for security. Dogs can help.

To get security, deputization of citizens has been done in some areas. A show of security is vital to reassure workers wanting to stay on the job. Use them the first day UFWOC shows up. Ask your county board of supervisors for additional funds for deputies.

Make sure anyone connected in any way with your operation is instructed to call you at the first sign of UFWOC. This requires they have a number where you can be reached day or night.

Establish a documentary committee. Telling stories among yourselves may make you feel better, but accomplishes nothing. Unless it reaches the public, it is useless and wasted effort.

Go immediately to take a statement from any worker who has an encounter. Make liberal use of both still and movie cameras and tape recorders. Make sure there is always a Spanish speaking person at the Citizen's Committee office.

If it can't be documented with sworn statement, pictures, hospital report, sheriff's report or some other item, forget it and move on something that can be documented. If people are unwilling to speak out, show them what others have said. When people know others are speaking, they are more willing to cooperate.

Be prepared to go around the clock when UFWOC hits your community. Set daily Citizen's Committee meetings to share information, but don't waste time repeating the same story. Get information to responsible committee members and go on to something else.

Keep informed about the growers themselves. If one is hard pressed, offer field help, transportation, child care, publicity or anything needed.

Perhaps most important, get to know the field workers. UFWOC cannot stand others talking to their people. Establish communication with workers now, and don't stop talking. Discuss unemployment coverage, and ask why UFWOC won't allow it. Ask if they know about UFWOC's hiring hall, the seniority list, where the money paid to the Kennedy health fund goes and UFWOC dues.

Offer field workers help with transportation, child care, personal problems, children's schoolwork, citizenship classes. Find out what needs doing. Then do it.

Make sure all committee members understand about green card status and rules, employment laws, wages, minimum ages, sanitation, any existing contracts. Inform yourself, and always give the straight scoop. Do not mislead anyone about wages or anything else. It is not necessary. The truth is strong enough.

Make sure that California Rural Legal Assistance and the O.E.O. understands in advance that the Citizen's Committee is watching them like hawks. Tell them, personally and repeatedly, that no federal employee's time, facilities, telephones, autos, paper, office space, duplicating machines or even an old outhouse are to be used for any UFWOC activities whatsoever. And make sure the public knows immediately about even the slightest violation.

If you have all this organized and ready to roll, a visit by the team of Chavez-Huerta will be easier to cope with. If you need more information or have a Citizen's Committee for Agriculture that wants to join the new group, write to J. Mario Marty, Chairman, Western States Citizens for Agriculture, P.O. 1031, Salinas 93901.—D.R.

PLIGHT OF HINDSIGHT

Had we farmers joined together to establish across the nation
A grower-consumer image promoting good public relations,
If we could have travelled the way of the wise,
No one would believe the Chavez' lies.
There would never be boycotts, or a distorted view
Of the good that the use of insecticides do.
We must pick up the pieces, create honest trends.
The public should know we've been labor's best friends.

We have given farm workers advantage of choice.
In wage-setting matters they have long had a voice.
If our government men will prove that they care
And on federal levels show savior-faire,
Legislation could end the sheer agony
Like that being inflicted by the UFWOC.—Gertrude Lawrence

EXHIBIT 3

THE PURPOSE . . .

To render legal aid gratuitously to workers who are suffering legal injustice as a result of employment discrimination under compulsory union membership arrangements, and to assist such workers in protecting rights guaranteed to them under the Constitution and laws of the United States.

To prepare educational materials dealing with employment discrimination under compulsory union membership arrangements, and the resulting effects upon the civil rights of minority groups and individual employees.

To undertake studies and research, and to collect, compile, and publish full and fair presentations of facts, information and statistics concerning the effects of compulsory unionism upon the social, religious and political freedoms of employees, and its overall effects on the national economy and political institutions.

To seek out and promote employment opportunities for workers deprived of their jobs, or otherwise coerced and restrained in their free choice of employment as a result of compulsory unionism.

To provide educational aid through scholarships, grants, or other forms of financial assistance to needy students, particularly those who require assistance because their parents' jobs or job opportunities have been curtailed or denied as a result of compulsory unionism, and students who have demonstrated an active interest in defending human and civil rights secured by law.

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The National Right to Work Legal Defense and Education Foundation, Inc., 1900 L. Street, NW., Washington, D.C. 20036.

[From the Wall Street Journal, Oct. 3, 1969]

UNIONS VS. GOP, LABOR MAPS BIG DRIVE TO ASSIST DEMOCRATS IN RACES FOR CONGRESS—WORK BEGINS AT THE DISTRICT LEVEL FOR 1970; AFL-CIO TO HIT NIXON TAX STAND—GEORGE MEANY AIDS EFFORT

By RICHARD J. LEVINE

Staff Reporter of The Wall Street Journal

ATLANTIC CITY.—Organized labor's political strategists, starting earlier than ever before, are readying a massive defense of their last major national stronghold—the Democratic Congress.

Though the 1970 Congressional elections are still more than a year away, AFL–CIO politicos have been hard at work for the last half-year on ways to help elect or reelect liberal lawmakers friendly to union causes. These include such Senate Democrats as Labor Committee Chairman Ralph Yarborough of Texas, Albert Gore of Tennessee and Vance Hartke of Indiana, to name just a few.

Building on lessons learned in 1963, when it played a crucial role in Hubert Humphrey's fast-closing finish, the AFL–CIO is developing new techniques that demonstrate the growing sophistication and scope of its political operation.

For the first time, the Committee on Political Education (COPE), the AFL–CIO's political arm, has quietly set up a special subcommittee to concentrate on close House races. The committee has already assigned to one union or another the responsibility for coordinating all political activities.

EXHIBIT 4

CALIFORNIA FARM BUREAU FEDERATION,
Sacramento, Calif., November 5, 1971.

FARM LABOR LEGISLATION

Assembly Bill 964 (Cory- Wood) was supported with no reservations by Farm Bureau. We were completely involved with other agricultural organizations in seeking its passage. A.B. 964 was designed to be as close to the National Labor Relations Act as possible.

There were three points which we desired of any legislation. They are:

1. Secret ballot elections,
2. Unfair labor practices for employer and labor organizations,
3. Prohibition of secondary boycotts.

A fourth item of importance to us was the creation of a State Agricultural Labor Relations Board to oversee elections and administer the Act.

The points are still important to us in any future attempts for legislation.

Long and intricate negotiations for securing labor legislation were upset by activities of the UFWOC and the AFL–CIO. It was most unfortunate for the farmer and the worker.

Farm Bureau would like to see national legislation, all states covered would have the effect of helping to preserve California's competitive position throughout the country.

Assembly Bill 639 (Ketchum), was, *in effect*, a duplicate of the Cory bill. We would have been happy to have had it enacted into law. The political realities made its passage not possible.

Assembly Bill 83 (Wood) was a back-up bill which Farm Bureau designed for the author. Both Assemblyman Wood and ourselves were dedicated to the Cory-Wood bill and had A.B. 83 in reserve if A.B. 964 failed. Politically, it also became impossible to move subsequent to the failure of 964.

The revived S.B. 40 (Harmer) was a last ditch effort to secure just a simple secret elections bill. In this instance the first amendments were from an old AFL–CIO Bill.

EXHIBIT 5

U.S. SENATE,
Washington, D. C., January 23, 1970.

Mr. ———,
Washington, D.C.

DEAR MR. ———: Though we've never met, I'm told you're deeply concerned about this country. That's why I'm sending you this emergency letter on behalf of the National Right to Work Legal Defense and Education Foundation.

In 1968, it is estimated union officials spent over $60,000,000 of union money on the Humphrey for President campaign. Unless something is done now, they will do even more this year in the Congressional elections and the Presidential election in 1972.

Their efforts, Mr. ———, will have particular bearing on elections there in D.C.

However, here is a chance right now to change all this. With a single stroke the flow of millions of dollars into such political war chests can be cut off. The implications of this opportunity are beyond description. But your help is needed.

Several weeks ago, the Foundation's lawyers began a national test case to challenge the constitutionality of the unions spending compulsory dues for politics.

They filed suit on behalf of 40 Detroit teachers who have refused to buckle under to AFL-CIO demands that they pay money to the union or lose their jobs.

You see, much of the union's political funds come from men and women—both Democrats and Republicans—who are forced to pay union dues in order to hold their jobs. This is what needs to be stopped—the use of compulsory dues for politics. After all, 44% of union people voted against Humphrey in 1968 even though their union dues were used in his campaign.

That's what this law suit is all about—the right of an individual to contribute or not to contribute to any party or any candidate, no matter what the union prefers. But there is an overwhelming amount of work to do in the next few weeks. There is a great deal of research that must be done—extensive depositions have to be taken—additional briefs, complaints and appeals have to be prepared and filed. It is critical that this work be done now in order to win.

The Foundation's lawyers need to build such a strong case that the current Supreme Court will carry its earlier opinion on this matter to a logical conclusion and hand down a firm decision stopping unions from using compulsory dues for politics.

In 1961 the Supreme Court expressed disapproval of a union's use of compulsory dues money for political purposes (International Association of Machinists vs. Street). But the court provided no meaningful way for individual workers to apply that ruling to their own situations.

So it is imperative that the attorneys build such an airtight case that the court will give an unequivocal ruling to guarantee the individual worker's rights. If they don't, it may be years before another case with so much potential will develop.

The Foundation is extremely fortunate to have one of the finest legal firms in the country handling the case. However, the AFL-CIO is going to fight this every step of the way. They have almost unlimited resources and a large staff of lawyers. That's why your help is so badly needed.

I don't know how much you can do to help. But the Foundation needs to raise a bare minimum of $115,000 in the next 30 days. Your personal contribution is fully tax-deductible—and your company or foundation can make a tax-deductible contribution as well.

They immediately need contributions of $500—$250—$100—$50—$25—$10—$5 and any other amounts that can be given. But believe me, your help is urgently needed.

Please send your check today.

With deep concern,

EDWARD J. GURNEY, *U.S. Senator.*

P.S.—If this case is last, the use of these compulsory dues for politics will further entrench the power of union officials. That's why it is so vital that you help.

E. J. G.

EXHIBIT 6

THE NATIONAL RIGHT TO WORK LEGAL DEFENSE
AND EDUCATION FOUNDATION, INC.
Washington, D.C. June 3, 1970.

Mr. McLELLAN SMITH
National Press Building,
Washington, D.C.

DEAR MR. SMITH: My secretary has just handed me a copy of our recent letter to you. I had asked her if we had heard from you.

As of this morning, we had not. So I'm taking the liberty of sending you a copy of that letter and again asking you to help.

It is estimated that union officials spent over $60,000,000 of union money on the Humphrey for President campaign in 1968. Unless something is done now, they will do even more in the Congressional elections this year and the Presidential election in 1972.

Their efforts, Mr. Smith, will have a particular bearing on elections there in D.C.

However, with a single stroke, the flow of millions of dollars of compulsory union dues into such political war chests can be cut off through a favorable court ruling. But to succeed we must raise funds for our attorneys to pursue the important "Detroit teachers" case.

I don't know how much you can do to help, but the Foundation desperately needs to raise $65,000 immediately. Your personal contribution is fully tax-deductible and your company or foundation can make a tax-deductible contribution as well.

Contributions of $500—$250—$100—$50—$25—$10 and $5 are urgently needed.

If we lose, the use of compulsory union dues for politics will further entrench the monopoly power of union officials. That's why it is so vital that you help. Please send your contribution, today.

Sincerely,

REED LARSON, *Executive Vice President.*

EXHIBIT 7

FOUNDATION ACTION IN THE COURTS

FOUNDATION AIMS FOR SUPREME COURT TEST

"Many changes are in the offing as the Supreme Court moves toward a conservative majority . . . Chief Justice Burger's only pronouncement on the general subject of labor implied that he believes in a Constitutional Right to Work—a First Amendment right to refuse to join a union."

Dun's Review, October, 1970.

In 1961, Justice Hugo Black (in the case of *Street v. IAM*) said that the compulsory union shop contract forces workers to finance "political, economic, and ideological" causes with which they disagree. He went on to predict:

> "The Constitutional question raised in this case . . . is bound to come here soon with a record so meticulously perfect that the Court cannot escape deciding it."

Like Justice Black, the Foundation believes that the United States Supreme Court cannot continue to sidestep the Constitutional issue in compulsory unionism, as it has in a series of cases over the past 20 years. The Foundation is preparing carefully screened cases "with a record so meticulously perfect that the court cannot escape" the Constitutional question.

In its short period of operation, the Foundation has already made great strides through litigation and looks forward to a promising potential for the future.

The Foundation's goal is to obtain a United States Supreme Court decision upholding the right of citizens to earn a living without paying money to a union. One of the most objectionable features of compulsory unionism is that it enables union officials to use dues money extracted from workers for purposes other than legitimate collective bargaining activities. A substantial part of union dues money is used to support the campaigns of union-endorsed political candidates.

Late last year, the Foundation, started a new national test case—the *Detroit Teachers* case—to challenge the constitutionality of the use of compulsory dues for politics.

On June 3 of this year, another Foundation case—*George Seay v. International Association of Machinists*—broke through a legal barrier thereby enabling workers in private industry to challenge union officials' use of their compulsory dues.

The Foundation's newest case, filed last month, adds a new dimension. The Foundation is challenging compulsory unionism imposed on agricultural workers by Cesar Chavez.

The Foundation is now working in three separate areas of attack on the constitutionality of compulsory unionism.

Exhibit 8

National Right to Work Committee

MEMORANDUM TO ASSOCIATION EXECUTIVES

The facts about Cesar Chavez and his use of crop boycotts as a union organization device are widely-misunderstood by the American people. As a result, there is a strong possibility that Congress will be stampeded into enacting farm labor legislation which will be extremely damaging to the interests of the consumer, as well as the farmer and his employees.

We believe that you, as a responsible Association Executive, have a stake in helping your members, and the public, to understand more fully the true story of the "grape boycott" and its implications for the business community.

For that reason, we are asking you to help distribute to your members and to the public the new book, "Little Cesar" by Ralph deToledano. This book sets the record straight on Cesar Chavez and the grape boycott, and points out what it can mean to every American. Distributed by the Hearst Publishing Company's paperback division, Pyramid Books, "Little Cesar" will be on newsstands in major population centers on April fifth. We have obtained advance copies and will gladly provide you with a complimentary copy for the asking.

We think this is so important that you will note from the order blank on the enclosed flyer that we are making "Little Cesar" available to you at cost in bulk quantities. We urge that you order the maximum number possible. If you want suggestions or help in distributing the book, we will provide it.

Please fill out the return the order form today. The threat of forced unionization of another big segment of American workers is immediate so we hope you will act now.

[From the San Jose Mercury-News, Nov. 7, 1971]

Speaker Booed Down At Anti-Chavez Talk

A former radio announcer met with stiff, vocal opposition Thursday night from Chicano students when he tried to associate Cesar Chavez with Communism before an ad-hoc committee of the John Birch Society.

Melchor Moreno O'Campo of Santa Maria was roundly booed and heckled throughout his hour-long talk before a meeting of the committee To Restore American Independence Now (TRAIN) in Lincoln High School.

Some 75 high school and college students interspersed among some 30 or 40 persons trying to listen to O'Campo kept up a steady flow of argument and personal insults.

O'Campo, who said he worked with Chavez in 1959 and the early 1960s, depicted the Chicano farm labor struggle as one part of a three-fronted movement he labeled as "Chicanoism." Besides the labor front, he said, were the Aztlan movement to capture five American states for an independent Chicano nation and the urban-based Chicano movement.

He said he became disenchanted with Chavez' organization (United Farmworkers Organizing Committee) when he saw a Chicano theatrical troupe desecrate the American flag in a skit.

"Now I can say I am very proud to be a member of the John Birch Society," he proclaimed over the taunts from the audience. "I went to the society, they did not come after me."

Exhibit 10

[From the San Jose News, Oct. 28, 1971]

The Right to Work Committee in Action

The Right-to-Work Committee has been using all means available to stop the organizing efforts of farmworkers. It has been working hand-in-hand with legislators and has sent out people like Melchor O'Campo to speak to community groups. Their latest attempt is the so-called "Farm Worker Initiative," which is a thinly-disguised right-to-work effort for a farm labor relations law which would permanently enslave farmworkers. Fronting this effort are Dolores Mendoza, a former Delano labor contractor, and Melchor O'Campo.

EXHIBIT 11

[From the Fresno Bee, Oct. 30, 1970]

CANCELED FAW VOTE STIRS NEW CHARGES

(By Ron Taylor)

While the Federation of Agriculture Workers (FAW) denies charges by Cesar Chavez that it has anti-union and right-to-work affiliations, one FAW official indicated growers and shippers may be helping to finance the organization.

The flare-up of charges and counter charges, reaching clear into the governor's office, resulted from the on-again-off-again FAW union recognition elections that almost were conducted by the State Conciliation Service Wednesday.

State Conciliator Ralph Duncan canceled the FAW recognition elections at the Boggiatto ranch in Monterey County after Chavez, director of the rival United Farm Workers Organizing Committee(UFWOC) protested.

Chavez charged the election was manipulated by Governor Ronald Reagan, adding, "Governor Reagan is a tool of the national Right to Work Committee, and is using the State Conciliation Service in a plot to keep farm workers from having their own union."

The FAW, formed in mid-August by Cornelio Macias as an anti Chavez union, has opened offices in Fresno, Bakersfield, Salinas and Imperial. It claims 3,000 to 5,000 farm workers as members, but Wednesday's attempt at a state-conducted election on the Boggiatto ranch was the first time the FAW has moved out into the open.

Macias and FAW Secretary-Treasurer Nick Kachadoorian both contend the FAW is a farm-worker directed and financed operation.

Macias acknowledges he was once a member of the Agriculture Workers Freedom to Work Association, an anti-Chavez, right-to-work organization. But he said he severed his relations with the now-defunct AWFWA.

NO NAMES

The fact that growers and shippers are financing part of the FAW costs was revealed by Pat Civiello, a FAW public relations man. When asked who FAW backers are, Civiello said he could not name those growers and shippers who are contributing.

But he did say, "We have been given substantial amounts by growers and shippers. They are kicking in because it is good for them too."

Civiello made this statement yesterday. Early today, after talking to Kachadoorian, he said he was in error and that growers and shippers are not contributing funds because "that would be illegal." Civiello said he had made a mistake.

Civiello said the FAW is a fledgling organization that has state and western regional aspirations. He said Macias and Kachadoorian have been organizing primarily through farm labor contractors and the ranch foremen who, they claim, are discontented with Chavez and the UFWOC.

GROWING GROUP

The FAW officials contend there is a growing body of farm labor that is becoming disenchanted with Chavez and the UFWOC, and the FAW is being offered as an alternative. The greatest points of difference appear to be over the open shop-closed shop contract provisions offered by the FAW and the UFWOC.

When Macias announced the formation of the FAW in mid-August, he said organizers would first sign up workers, than the FAW would seek State Conciliation Service elections to further establish recognition claims.

Wednesday's election procedures was the first indication this plan was being put into effect. Duncan said the grower contacted the State Conciliation Service, asking for the recognition election proceedings, which were granted.

Duncan denied there was anything secret about the elections and reacted angrily to Chavez' statements, labeling them "unfactual."

Refuting Chavez' charge that the governor was involved, Duncan added, "No one outside of the State Conciliation Service knew about this election."

The election would have involved 24 artichoke workers. Only eight had voted by the time Duncan called off the election. The ballots were impounded.

When asked about his organization, Macias explained that he had worked for the Bianco Fruit Corp.—now under contract to the UFWOC—for 17 years. Prior to Bianco signing with the UFWOC, the corporation went into bankruptcy and Macias lost his job.

He returned to Sanger to work with his father, a labor contractor. "People who were dissatisfied with Chavez and the UFWOC began to come to talk to me. They wanted me to help," he said.

SIGNS CONTRACTORS

Civiello explained that the FAW began to feel out farm labor contractors, who felt threatened by Chavez' UFWOC. A large number of them have signed with Chavez and his staff. FAW contracts, he said. He added that the FAW was organizing before the Teamsters—UFWOC disputes errupted in the Salinas Valley.

He said the FAW was invited to the Castroville area and that the Boggiatto workers were signed up in the FAW before the election was requested. He said the FAW would now proceed with a "card check" to prove it did represent the workers.

While Civiello was more candid about the FAW organizational efforts than either Macias or Kachadoorian, all three were vague when asked specific questions about the organizational structure.

While the number of workers involved in the Boggiatto election attempt is small; the emergence of the FAW and its announced statewide plans makes the farm labor situation all the more confusing.

END BATTLE

At the present time the Teamsters and the UFWOC have agreed to halt their battles in the Salinas Valley. According to the agreement the UFWOC is free to organize field workers, but the mechanics of teamster-former "disengagement" still have not been worked out.

The Teamsters hold contracts with some 200 produce growers in the Salinas Valley and Santa Maria areas. William Grami, who led the Teamsters organizing efforts in Salinas, acknowledged some disengagement actions already have begun.

He said field workers no longer had to join the Teamsters within 10 days after going to work; the Teamsters are putting field labor dues in a special trust fund, pending return of the money as the union backs out of the fields.

But, beyond this, the disengagement tactics still must be worked out, presumably by the top level of the AFL-CIO and the Teamsters, in conjunction with Chaves and his staff.

Just where the FAW fits into this complex picture is uncertain. The FAW leadership appears to be oriented toward continuing the labor contractors form of farm labor employment.

The FAW leaders acknowledge the UFWOC hiring hall would eliminate the farm labor contractor system.

The FAW also contends the UFWOC seniority system within the union hiring hall has caused serious unemployment among some crews. They point out the UFWOC no longer allows families to work their children, and places other restrictions on hours and working conditions.

[From the San Jose Mercury, Oct. 21, 1971]

Many Farm Workers Paid, Below Legal Minimum

Earle, Ark.—Five years after federal minimum wage legislation was extended to agriculture, thousands of farm workers still labor for pay well below the legal minimum of $1.30 an hour.

From the cotton plantations of the South to the cherry orchards of Michigan, from the blueberry fields of North Carolina to the apple ranches of the West, illegal low pay scales are not uncommon.

Here in the rich soil of the Mississippi River Delta a housewife weeds soybeans for 55 cents an hour.

In a large California prune orchard migrants get the equivalent of a dollar an hour at piece rates.

In Michigan members of a Texas crew toil for 70 cents an hour in the strawberry fields.

Such examples turned up frequently in a random check from coast to coast. All were on farms large enough to be covered by the minimum wage law.

Smaller farms that employ two-thirds of all hired farm labor are not covered. They usually pay even less than large farms.

The Labor Department provides few investigators to inspect farms covered under minimum wage provisions, and few farm workers complain of illegal pay rates for fear of losing their jobs. To thwart possible investigations, some growers do not keep required records of hours worked and wages paid. Even so, inspectors investigating complaints found more than 6,000 farm workers paid illegally low rates in fiscal 1971.

A powerful farm lobby was able to exclude farm workers from minimum wage legislation for 28 years after the Fair Labor Standards Act gave coverage to industrial workers. Amendments in 1966 added workers at farms employing 500 man-days of labor in any quarter of the year but kept the scale 30 cents an hour below the $1.60 minimum that applied in most of the rest of the economy.

With no political muscle and little formal education, hired farm workers, largely black or brown, have been helpless to do much about their low pay except to seek to qualify for supplementary food stamps or welfare payments. They are excluded from the right guaranteed others by the National Labor Relations Act to collective bargaining and from most other social and economic legislation, including unemployment compensation and social security.

Andreas Reyes of Delray Beach, Fla., made $8 for a nine-hour day picking beans on a large farm near Fort Lauderdale. Six adults in the Jose Suarez family, from the same part of Florida, got a total of $40 for picking oranges all day in groves in Palm Beach County.

None complained. But a few others are beginning to.

In July, Taylor farms of Decatur, Mich., had to pay Manuel Flores and others in a crew recruited from Texas to harvest strawberries and pickles the $4,300 a court found it had shorted them on minimum wages.

Few underpaid farm workers are fortunate enough to have legal assistance. David Hall of the United Farm Workers Organizing Committee in McAllen, Tex., said some cotton pickers in his state get as little as 28 cents an hour.

The Labor Department's Employment Standards Administration is charged with policing the minimum wage law. It checked 692 farms in fiscal 1971, mostly in the South, and found 6,263 employees illegally deprived of $913,901.

Migrant groups charge in a pending suit against the Labor Department this year that the actual shortage is at least $100 million a year.

California Rural legal Assistance found the pay of workers placed on farms by state job offices to average 75 cents to 90 cents an hour. On the East Coast, James Pierce, executive director of the National Sharecroppers Fund in South Boston, Va., said some seasonal farm workers draw as little as 50 cents an hour.

One of several exemptions from coverage obtained by the farm lobby in 1966 provided that hand harvesters who commute from home daily for piece work need not be paid the minimum if they labored on farms less than 13 weeks the previous year.

Migrants' children under 17, a large percentage of the migratory labor force, are also exempted from the $1.30 minimum.

[From the Fresno Bee, Dec. 10, 1971]

FARM SUBSIDY PAYMENTS IN KERN COUNTY ARE UNDER INVESTIGATION

WASHINGTON (UPI).—The Agriculture Department's Office of Inspector General was to begin this week an investigation of complaints about allegedly improper farm subsidy payments to farmers in Kern County.

The probe is the latest in a series of actions touched off by an Agriculture Department check-up team's study of compliance in the big cotton-growing county with a program under which farmers earn subsidy payments by idling a portion of their cropland.

Officials said the inspector general's men will study some cases including allegations that farmers idled substandard or ineligible land instead of average cropland to earn their payments. But the agents also will look into a small number of cases—possibly no more than three—where questions were raised about the division of farms to avoid a $55,000 per crop ceiling on subsidy payments to individual growers of cotton, wheat and feed grains.

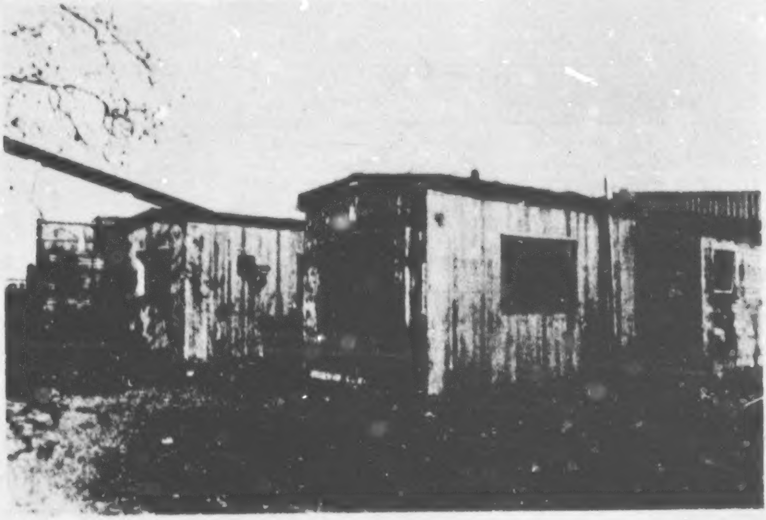
In an allied development, an official of the General Accounting Office (GAO), a fiscal watchdog agency for Congress, confirmed that the GAO was also investigating the division of farms to avoid the $55,000 limit nationwide and was including Kern County in that probe. No report is expected before next April at the earliest on the study, which will also go into the broader question of the impact of the payment limit on government spending an official said.

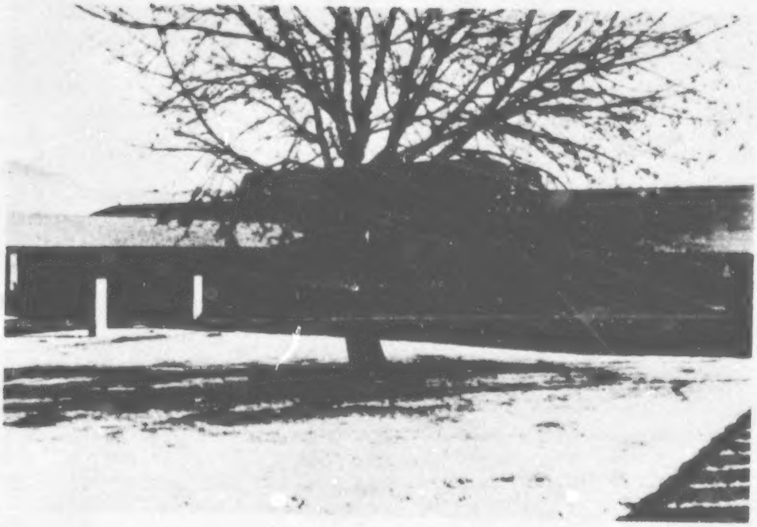
"Bona fide" divisions of farms to avoid the limit are authorized under farm law, but evasions or subterfuges are banned.

In Kern County, an Agricultural Dept. checkup team had complained of allegedly improper payments—mostly involving substandard or ineligible retired land—on 486 of the county's 1,190 farms. These complaints, currently being reviewed by county and state farm officials who will make final decisions, could lead—if sustained—to reduction of farm payments in minor cases or outright cancellation of payments in more serious cases, a spokesman here said.

One of the farms involved in questioned "land quality" cases is owned by Kenneth E. Frick, head of the Agricultural Stabilization and Conservation Service. (ASCS) which operates the farm control and subsidy program. Frick's farm is held in trust by a California bank and operated by a brother. Officials stressed that all farmers involved will be given a chance to establish that the complaint which one spokesman termed "often a matter of judgment about land quality," were wrong.

Kern is one of five ? counties in which early indications of possible violations led to a check of compliance on every farm which participated in the farm program.





Senator Stevenson. It will be received by the committee and printed with your statement.

Thank you.

We will now recess 20 minutes for lunch, and reconvene the hearing at 10 minutes of 2.

(Whereupon, the subcommittee recessed at 1:30 p.m., to reconvene at 1:50 p.m.)

AFTERNOON SESSION

Senator **Stevenson**. The meeting will come to order.

Our next witness is Mr. James Lowery, director, Center for New Corporate Priorities.

Mr. **Lowery**. Mr. Ed Scanlon will assist me in answering any questions you might have.

I have submitted a long version of my testimony for the record and I will excerpt it.

Senator **Stevenson**. That will be fine. Your statement will be entered in the record at the end of your testimony.

STATEMENT OF JAMES LOWERY, DIRECTOR, CENTER FOR NEW CORPORATE PRIORITIES, LOS ANGELES, ACCOMPANIED BY ED SCANLON

Mr. **Lowery**. My name is James Lowery. I am project director of the Center for New Corporate Priorities, a Los Angeles-based research organization which has been examining issues of corporate responsibility for the past 15 months.

Last summer we conducted a 2-month research project aimed at identifying some of the causes for the demise of the small farm in California. You have heard or will hear some of those problems explained in other testimony—the California Water Project, tax advantages, subsidies. We chose to concentrate on farm credit, how it favors the large growers and discriminates against the small farmer.

Our sources were interviews with small farmers, processors, bankers, and agricultural officials and public records such as bankcuptcy files.

Part of the reason that rural poverty is as bad as it is in California is that the public has underestimated the immense power and social impact of large financial institutions such as insurance companies and banks. The world's largest bank, Bank of America, puts $1½ billion a year in California agriculture. Neither the public nor the bank have given any thought to its ultimate social impact. These financial institutions have helped cause a concentration of land in the hands of a few. They have financed and bailed out the water project. They have financed mechanization without a thought to its social costs. As a last blow to rural California they have begun to tighten their credit policies, forcing the small farmer into perhaps his final tailspin.

Consider the environment in which these institutions operate. Unemployment in the San Joaquin Valley is about 7½ percent; 30,000 small farmers will have ceased to operate between 1968 and 1975; unemployment in Fresno County will stabilize at 7½ percent for the next 20 years and many small towns like Corcoran see over half their residents living on welfare.

Development Research Associates of Los Angeles took a look at the Fresno area and concluded that this richest agricultural county in the Nation, could only be compared to Appalachia.

The appalling thing about these conditions is that some of the country's most respected agricultural economists sitting in bank offices seemed to have overlooked them as their management carried on business as usual.

Who are these financiers of agriculture? One could mention insurance companies such as Prudential which have financed many of the transactions involving sale of agricultural land, or the banks whose money goes indirectly into the vertically integrated conglomerates operating now in California agriculture.

We have chosen to concentrate our research to date, however, on some of the packers and processors which offer financing to farmers and on the Bank of America, lender of 40 percent of the State's agricultural credit.

The Bank of America loaned $1½ billion to agriculture in 1970. Its annual production loans to farmers amounted to between $800 million and $1 billion. Its trust department operates 100,000 acres in the San Joaquin Valley, and companies having director interlocks with Bank of America over the past 15 years own nearly a million acres of agricultural land in the San Joaquin Valley, about one-fourth of the total agricultural land.

In recent years several Bank of America officers have been California agriculture officials at the same time they were employed by the bank, particularly the directors of the State department of agriculture under the administrations of both Brown and Reagan.

The administrator of the Federal farm subsidy program, Kenneth E. Frick, has his land held in a Bank of America trust.

I cite these examples to give you an idea of the position of the world's largest bank in California agriculture. Its policies have a profound effect.

So do the credit policies of the food processors and packers, which have been able to exercise great leverage in determining market prices and crop supplies. These companies range from small community packaginghouses to huge concerns such as Del Monte and Tenneco.

We have found three areas in which food processors and packers are having considerable negative impact on the rural life in California.

The first is the support by banks of the trend to mechanization, without any consideration for the effects.

The second is bank participation in financing the State water project.

The third is the credit policies of these banks and packers.

I would like to deal very briefly with the first two areas since they show the pattern for the involvement of financial institutions, and to go into a bit more detail on the third area, credit.

First, mechanization is a trend firmly set in California at a rate faster than anyplace else in the Nation and has been supported by the banks because in short it makes their large customers more bankable. About two-thirds of the research on the tomato harvester emerged not from the universities but from private corporations dependent on bank loans.

The point here is not that automation ought to have been held up, but rather that the social impact ought to be compensated for. The banks have had a marvelous capability for estimating cost effectiveness and profit margin, but apparently not for calculating social costs in advance. In retrospect, once mechanization had taken over 95 percent of California's tomato harvest, the Giannini Institute estimated that the ultimate social cost of the tomato harvester will amount to $42.9 million a year by 1973. TRW Corp. estimates now that 70,000 farmworkers will have lost their jobs and 30,000 small farms will cease to operate between 1968 and 1975 because of mechanization.

The Bank of America has replied that such social costs will be absorbed by the taxpayer as the county and State begin training and relocating programs. If this were true, then the taxpayer would be shouldering the burden of poor social decisionmaking by corporations. That would be bad enough. Unfortunately, though, the only ones who absorb social costs of mechanization are the jobless, the displaced, and the impoverished.

The second area of bank activity which I would like to mention is the California water project. The Bank of America and Bankers Trust of New York underwrote nearly all of the bonds; Bank of America handled at least $600 million itself. I think this is a case where the bank's lack of concern for the ultimate effect of the project was overshadowed only by State and Federal ineptitude. The water project makes sense to the Bank of America. It is bringing into production hundreds of thousands of acres of land on the west side of the San Joaquin Valley, much of its owned by bank directors and large customers.

Of course due to the oversupply now in many California crops these new acres for the most part will be excess, that is, the crops grown on the new land will exceed demand and drive wholesale prices down, the citrus food prices 5 to 7 percent; almonds, 4 to 9 percent; grapes, 9 to 12 percent; oranges 2 to 4 percent. These price declines, according to past experiences, are usually not passed on to the consumer; they are absorbed in the packing and distributing end of the business.

The large growers on the west side of the valley can absorb the price decline for several years because they often have nonfarm income, but their smaller competitors on the east side could not absorb the price decline and could conceivably be squeezed out.

Who benefits from the land brought into production? Some examples: Getty Oil Co. which put 30,000 acres of new land into production since the water project. There are three Bank of America directors on Getty's board, including the past and present chairmen. Landowners in the Westlands Water District will put 115,000 new acres of specialty crops into production by 1990. Bank of America officers, directors, and customers control at least three of the nine seats on the Westlands board.

Incidentally, the land value increases they will receive from the irrigation will amount to about $22 million. I think it is clear why California's largest bank supported the California water project.

Now let's get to what we consider the most important factor contributing to the demise of the small farmer, credit. The water project is almost completed, the effects of mechanization have begun, and are perhaps irreversible, yet the banks still have an opportunity to adjust their credit policies in agriculture, if they can be made to accept its necessity and if they are prodded to do so.

I will restrict my discussion here to production credit, that is, the year-to-year financing of planting and harvesting as opposed to capital credit, land purchases.

But I should emphasize, in line with some of the other previous witnesses, that, because of the high cost of land and equipment no one but wealthy individuals and corporations can enter agriculture today. Therefore, if we want to save the small farm it is absolutely necessary to have adequate production credit to save the ones which already exist.

In production credit the small farmer is at a disadvantage. He needs financing each year for pesticides, fertilizers, harvest costs and other costs, and has only three choices—commercial banks, national lending cooperatives such as the Production Credit Association, or a food processor or producer.

The trend today is briefly as follows: The large banks are cutting back on loans to small farmers. The Production Credit Association is not an adequate option because of the restriction it puts on loans, and so the small farmer must go to a packer or a processor for credit. This may be the end of the line. Fresno bankruptcy records show that most small farmers going under are in debt to packers, not to banks.

Let's look at how this squeeze works a bit more in detail.

The Bank of America has told us that farmers who have done business with Bank of America in the past now will have moderate difficulty in getting production loans. Those who have not had business with the bank in the past will have a very difficult time. Bank of America has justified this policy to us by contending that small farms are not as efficient as larger ones, a view which we do not share with reference to a number of significant crops, such as citrus, grapes and cotton. In these crops the small farmer usually has a lower cost per-ton and a higher yield per-acre than the large grower. Conversely, the alleged efficiency of corporate growers such as Russell Giffen and J. G. Boswell is something aproaching a hoax. These operations are bankable mainly because they rely on subsidized water and subsidized mechanization.

There are two principal ways in which banks discriminate against the small farmer. One is the carryover of production credit. For the very large, such as Russell Giffen, owner of 45,000 acres in Westlands Water District, the Bank of America will carry over several hundred thousand dollars from one year to the next and still grant him new production credit. Bank of America trust officers told us this is because the bank cannot afford to foreclose on him. Bank of America does not grant such a break to small farmers. He is denied further loans if he does not pay back his 1-year loan promptly.

Bank of America explains that the small guy is a bad risk. In fact, he is a bad risk because he doesn't have adequate credit. Bank of America trust officers related to us a story here which is rather illuminating. A farmer and wife, an elderly couple, died several years ago, they said, and willed their farm to the Bank of America trust department under the terms of their mortgage. This farm, the bank said, would probably have gone under within 2 years. On taking over the land itself, the bank put its own money into the farm, hired the couple's son at $7,000 a year to manage the farm, and turned the operation around. It will be making a healthy profit within another year. This is just one example of what adequate financing can do if it happens to be Bank of America's trust department which owns the land.

The second way in which banks discriminate against the small farmer is to set a minimum amount of land which a farmer must have free of indebtedness, that is, without a mortgage in order to get credit. By adjusting this figure for small or large growers, the bank can ease its conscience by denying credit to certain classes of farmers.

When the farmer cannot get bank credit, his only options are the Production Credit Association and packing houses. Production Credit Association gives very short-term loans in increments which restrict the farmers' operation. I won't go into detail about Production Credit Association here.

The other option is the packing houses or food processors. This may be a small locally owned company or it may be owned by a large corporation such as Del Monte or Tenneco. There are, in general, two ways to get credit from a packing house. They amount to two ways in which the small farmer is further squeezed.

The packing house, first of all, can lend to the farmer using crops to be harvested as security. Such loans usually carry interest charges 1 to 2 percent higher than the bank rate.

I should point out this amounts to the packing house simply being an intermediary between the bank financing and the small farmer. For the farmer there is a disadvantage, namely, the fact that fluctuations in prices will greatly affect his ability to meet the loan. Since the packing house negotiates the price at which crops will be sold to marketing outlets, the farmer may not benefit at all and may, in fact, end up owing the packing house money at the end of the year in the event that his income does not cover the packing house cost.

In the present market, such price squeezes have been increasing.

Secondly, the packing house can offer to purchase the farmer's crop at the beginning of the season at a guaranteed minimum price and give him a low-interest advance on that amount to cover preharvest costs. Theoretically this shifts the risk of price fluctuations to the packer, because if the market price is lower than the agreed amount or price the packer takes the loss. Although the packer takes the risk, it covers itself by offering the farmer an initial price close to the minimum for the previous year for that crop. This price is usually offered without the ability of the farmer to negotiate it. Packers can use their credit leverage to dictate supply, since their credit is the last option the farmer has.

I will cite one example we have heard concerning Del Monte. Several years ago when wholesale cling peach prices in the San Joaquin Valley were higher, Del Monte began offering incentive credit to farmers who would increase their acreage of peaches. The result is now being felt. As those new plantings matured, there developed an oversupply of peaches, which has driven down the wholesale price Del Monte pays to those same farmers. Retail prices, however, have not dropped proportionately. Because of this, the oversupply is no problem to Del Monte, it is only a problem to the small farmer who is now stuck with the excess planting and low prices.

The effects of these credit policies, of the California water project, and of mechanization are perhaps complex, but that does not cloud our analysis of the underlying causes for rural poverty and for the squeeze on small farms. The causes are the unchecked power of the largest landowners, the banks and agribusiness concerns, and the annual shower of billions of dollars into California agriculture with little or no social planning.

Let's talk to the issue directly. What responsibility does a bank which lends a billion and a half a year to agriculture have towards seeing that such loans don't cause social havoc? We think that it is unfair for such corporations to put the cost of their poor or nonexistent social decisionmaking on the unemployed, the jobless, and the taxpayer.

The first step is for the corporation to acknowledge that there are social costs. Bank of America apparently has a social accounting scheme called the Arithmetic of Quality, but I have not seen it work in agriculture.

The second is to do something about offsetting the social costs already incurred. I see little of this, either.

Third is to anticipate social costs in present and future policies. As you have seen from Bank of America statements with regard to credit, there is none of this either. These corporations do not change without pressure; unless we are willing to write off rural California, we must confront the giant agribusiness companies and their billion-dollar lenders head on.

I would be happy to answer any questions, especially in reference to Robert Long's testimony the other day, the representative of the Bank of America.

Senator STEVENSON. Mr. Long said, in response to a question of mine, that the Bank could not break out the figures on the aggregate amount of credit it had outstanding to small farmers. Do you have any such figures? Can you break down for us loans outstanding to farmers of, say, less than $10,000 a year in income? Is there any way of getting such information?

Mr. LOWERY. That is very difficult information. That has been our point. How can legislators and the general public make good decisions about social planning if we don't have that kind of information. The bank has simply said it doesn't break those figures down that way. I think it would be absolutely necessary to find that information.

Apparently what Mr. Long had done was to go through a number of files and demonstrate in the past the bank has been loaning to a very broad range of agricultural clients, ranging from very small farmers, lines of credit from $1,000 on up to hundreds of thousands of dollars.

The point is, what is happening right now? The Bank of America has been involved in agriculture in California since the thirties when it had foreclosed on some 600,000 acres of agricultural land in California and it had made a policy during that time of loaning a good deal of money to small farmers. The point now is that that credit is drying up and, while the large growers are subject to the same market conditions, costs are going up and prices are remaining stable. The Bank of America is perfectly willing to carry over debt for Russell Giffen or for its other large customers and not willing at all to do that for its smaller customers.

Senator STEVENSON. How do you know that when apparently nobody outside the bank knows how much credit it is extending to small farmers?

Mr. LOWERY. We have analyzed the policy according to interviews we held with some of their trust officers in Fresno and with agricultural economists whom we interviewed in San Francisco. These trends, admittedly, were defined to us without any documentation of how much money was going to large and small farmers.

Senator STEVENSON. I also asked Mr. Long if he knew what the Bank's policy was on interlocking directorates. He said that it was contrary to the policy of the bank for members of its management to serve on the boards of its corporate borrowers, but he didn't know what the policy was with respect to interlocking directorates.

Mr. LOWERY. The examples we have for interlocking directorates definitely show that the bank has no policy to restrict such interlocks. We have an appendix to submit with our testimony which will document some of those interlocks. I think if I were to run down some of those names and the interlocks, we can see that the Bank of America's policies logically represent these interests and not the interests of the small farmer at this point and not the interest at all of the farmworker.

We have a director, Harry S. Baker, Producers Cotton Oil, that is often a middleman offering credit to small farmers. We found a number of bankruptcy records which show that small farmers had been in debt and then had gone bankrupt, connected with Producers Cotton Oil.

Louis Petri with Allied Grape Growers—it just goes on and on. I won't bother to list a lot of names. But the policy seems not to restrict director interlocks either in Bank of America or any other American corporation.

Senator STEVENSON. For the record, the subcommittee counsel has stated that we received a letter from Mr. Long supplementing his testimony. In this letter he makes no further comment about the bank's policy on interlocking directorates, but he says that he was inaccurate in suggesting that the policy of the bank forbade members of its management serving on other boards of other corporations with which it has commercial relations. Apparently there are exceptions, at least to that policy, and members of management serve on the board of its corporate borrowers occasionally.

Are you suggesting that these interlocking relationships illegally influence the bank's lending policies?

Mr. LOWERY. I don't think necessarily illegally. It is a question that has been brought up in relation to virtually every large American corporation at this point. Whom does the board of directors represent? Which interest does it represent? I don't think this is a place necessarily for a legal challenge. Those people in California who feel that they are not represented by such powerful entities such as Bank of America, I am sure the farmworkers and the great number of small farmers must feel they would have a legitimate moral case for having some of their interests represented.

I think it is a social imperative that the Bank of America and the insurance companies involved in agriculture, for instance, as I said, at the very least begin analyzing the information that they have concerning their credit policies, where the money is going, what social impacts it has. Then we can better judge whether these are actual conflicts of interest or not.

Senator STEVENSON. Can you tell us anything about the activity of the Farmers Home Administration and the Small Business Administration with respect to loans to small farmers?

Mr. LOWERY. No; we haven't looked into that a great deal. I think that it is an extremely important area. Some of the previous witnesses, including the representative, I think, of the Westlands Water District, have been saying that credit is absolutely necessary for distribution of that land. And the point was brought up that it would be necessary to have low interest, very low interest or no interest loans available. Our field of inquiry was restricted pretty much to production loans and not to long-term credit.

But from what I have read, I think that those national cooperatives, the land bank and so forth, the Federal land bank, are good in their policies and their thrust, but they just don't have enough muscle to offset the tremendous social forces already put into effect.

Senator STEVENSON. You would agree that any bank has a duty to its depositors and to its stockholders. It has to follow the truth in lending practice. It wouldn't be reasonable for a bank at this point in our history to be concerned about the credit of the typical small farmer especially with, judging from the testimony, a real possibility of serious surpluses at least in the production of commodities in California, would it?

Mr. LOWERY. There would be several points in that regard. First of all, there are precedents for the Bank of America and other banks giving loans to vary high risk ventures, for instance, Lockheed. I think also one could mention some of the conglomerates. Again, we have no access to how efficient such very large growers, as Russell Giffen, are, but, if a debt of several hundred thousand dollars a year was carried over, those people must share some of the risk.

I think, though, what we have is somewhat of a circular argument because a number of these small farms, if they had the capital available to expand, to buy machinery and so forth, could achieve a return on investment which would be respectable and which I think the bank would accept, and they just are not getting that kind of credit right now.

The other thing with the production. I think oversupply right now and also the disadvantage which the small farmer has in his marketing. I think you are correct that these factors have both discouraged bank lending to small farmers.

That is my point about not looking ahead, calculating the social effects or the effects on production of the California Water Project, for instance.

Senator STEVENSON. Mr. Long did say in this connection that he felt it could be fruitful for the subcommittee to explore the possibilities of making additional Government-guaranteed loan programs available for small farmers. I think there are already some such programs available through the SBA, for example, but I don't know, on the basis of what we have heard so far, to what extent that guarantee authority and the SBA or similar authority in other agencies, is available and being used in California.

Mr. LOWERY. It seems to me what we need is not necessarily a whole new agency or a whole new Federal program for pouring money into small farms, perhaps a supplemental program or something to supplement existing loans, if that information were available, so we could design such a program, that might do it.

On the other hand, I don't think, from our point of view, that we would like to see that sort of policy drawn up without, at the same time, offsetting the policies which got the small farmer there in the first place, which is favoritism towards the large growers with subsidies, with subsidized mechanization, which are the factors that are making those growers bankrupt.

Senator STEVENSON. I am not suggesting this should be an exclusive concern. You are the one who said you would deal with credit.

Senator Taft, do you have any questions?

Senator TAFT. Thank you, Mr. Chairman.

Mr. Lowery, would you tell me what the center for New Corporate Priorities is?

Mr. LOWERY. We are a research organization in Los Angeles, a nonprofit, educational organization which has been doing research on corporations and corporate responsibility since about November of 1970.

Senator TAFT. Do you have paid employees?

Mr. LOWERY. Yes.

Senator TAFT. How many paid employees do you have?

Mr. LOWERY. Six.

Senator TAFT. Does the center have an endowment?

Mr. LOWERY. No.

Senator TAFT. How is it financed?

Mr. LOWERY. It is funded by foundation grants, contributions, churches.

Senator TAFT. What is the annual budget, approximately?

Mr. LOWERY. The annual budget in the last year was about $15,000 total.

Senator TAFT. How many contributors did you have?

Mr. LOWERY. Fifty to a hundred, something like that.

Senator TAFT. Do you have a board of trustees ?

Mr. LOWERY. Yes.

Senator TAFT. Would you submit to the committee a list of your board of trustees and of your contributors and the amounts, could you do that?

Mr. LOWERY. Certainly. We have no objection. We have made that public to the IRS. [Staff Note: The requested material was submitted by Mr. Lowery and has been retained in the subcommittee files.]

Senator TAFT. You file a form 99. It is just for our convenience that I would like to have it.

Mr. LOWERY. Yes, sir.

Senator TAFT. What other studies have you made this year?

Mr. LOWERY. We have done a number of studies on corporate involvement in foreign countries, such as Southeast Asia, in Pakistan, in Thailand, for instance. We are doing some research in minority communities with regard to credit policies, SBA loans and so forth.

Senator TAFT. Are your employees full-time employees?

Mr. LOWERY. Yes.

Senator TAFT. And you are a full-time employee of the center?

Mr. LOWERY. Yes.

Senator TAFT. I would welcome some additional comment as to your feelings about mechanization. We have heard a good deal of opposition expressed to it, but you seemed to express, I thought, a somewhat different point of view. Would you comment on that?

Mr. LOWERY. My statement was that mechanization was not inherently bad or automation. My reference was to automation, not mechanization.

The first point is to, in effect, clean up the mess that we have generated by taking on these very grandiose mechanization plans without any social planning. I think nobody looked into how many unemployed were going to result because of mechanization in the cotton industry, and in tomato harvesting, in grape harvesting, and so forth. The Government didn't take any measures, neither did the State of California, nor the corporations involved.

In terms of mechanization in other crops, my point is simply that automation is not inherently bad.

I would like to point out, however, that there are some assumptions made. We have heard comments by Bank of America representatives and some others comment on mechanization, that mechanization, automation, is inherently good, or let's say neutral, at the very least, because it generates new jobs.

Senator TAFT. And lower prices sometimes?

Mr. LOWERY. Sometimes. That is not to be counted on.

But, in any event, with the case of the grape harvester and the tomato harvester and all of the new mechanization projected over the next 10 to 20 years in California. I have seen projection by the Giannini Institute which says that there will be a net loss of about 75,000 jobs. There will be 20 to 25,000 new jobs generated, but we shouldn't delude ourselves that the people displaced from farm labor will have a chance at those jobs.

Senator TAFT. What are we going to do? Are we going to hold up progress and industry generally where automation may result in an initial loss of jobs?

Mr. LOWERY. It depends on how you define progress.

I think going ahead blindly with mechanization——

Senator TAFT. I don't think we ought to go into it blindly, but I think we have a question. Let's consider cotton for a minute. The United States is already competing at some disadvantage with other cotton-producing nations throughout the world. Do you think it will be in our interest to fail to use automation that may result in lowering the price of cotton?

Mr. LOWERY. If you are talking about purely economic judgment, certainly not.

Senator TAFT. I am talking about social judgment, too, because, if you have no cotton industry left in the country, you are not going to have anybody working in it whether it is automated or whether it is not automated.

Mr. LOWERY. The point is, if you have visited a town such as Corcoran, and one of the previous witnesses mentioned that in the town of Corcoran 60 percent of those people are on welfare. There used to be about 7,000 or 8,000 farmworkers a year working in the fields around Corcoran. There are no jobs, there are no jobs in Corcoran. There are no jobs in Fresno. There are no jobs in Los Angeles, particularly, that they can go to. My point is simply who looked at the effects, who took into account in advance the effects of that mechanization? No one.

I am saying that perhaps the decision to go ahead with mechanization in these other crops would be in the same position if we don't plan at least as ambitiously to offset the social costs.

One point I would like to bring out in reference to the Giannini Institute, actually I think it was the University of California at Davis, I think one of the other witnesses earlier made reference to the fact that 90-some percent of the research done at U. C. Davis or the University of California on agriculture was directly related to technology. It is very curious to me to have seen that the only study that had ever been done on the social costs of the tomato harvester was done in 1970 at a time when 95 percent of the crop was already harvested mechanically, and it would seem to me to be a very bad policy to do all of these studies in retrospect.

Senator TAFT. Supposing it had been done before, what do you think should have followed? Supposing it had been done before, when the State patent had been developed and the engineering feasibility had been developed, but it hadn't been put into production at all, and they made the study at that time and came out with the results, what should they have done then?

Mr. LOWERY. Job training, relocating, compensation. All of these things are very accepted policies in other industries. I think in industries where labor has had any muscle they have gotten compensation, they have gotten training programs and so forth. That has never been true with farm labor.

Senator TAFT. That is what I wanted you to bring out.

Mr. LOWERY. I think also it is very sad to me, we took a look at some of the studies which have been done recently on Fresno County and Fresno County is an area which is absorbing a lot of influx of unemployed due to mechanization and it is pretty much left up to the county and the city of Fresno to absorb that joblessness. Obviously the county cannot do it, the city cannot do it, the State hasn't been willing to do it, and the Federal Government apparently has not seen fit to step in.

Getting back to our point about banks and financing and corporations, the ones who have initiated these policies and, in effect, placed bets years ago on technology and mechanization, we think that they should have shared some of the responsibility to plan for social costs.

Senator TAFT. Of course what the legal obligation of their management would be as to the extent of their participation would be a matter with which you have been concerned. Would you have comment on it?

Mr. **Lowery**. Could you rephrase the question?

Senator **Taft**. Would the management have legally had the responsibility to expend sizable amounts of money on the alternatives or routes you suggest?

Mr. **Lowery**. If you read the annual report of Bank of America in 1970 and look at what they say about their social responsibility, I think they are ready to do it. They are already justifying it to their stockholders. They just haven't done it.

Senator **Taft**. But there is a limit to how much they can spend on this, isn't there, besides the legal matter?

Mr. **Lowery**. Perhaps.

Senator **Taft**. I can view a minority stockholder suit for waste of assets when you get to a certain point.

Mr. **Lowery**. I think the Bank of America is not worried about a minority stockholder suit. It is interesting to note that the Bank of America, and I am using the bank because we know it a little better than we know General Motors or A.T. & T. or any other corporation, but the pattern is clear. In 1964 the CORE began demonstrating in front of the Bank of America branch here in San Francisco and, lo and behold, a few years later it became acceptable for the bank to be hiring more blacks and Chicanos, and they haven't had any minority suit from stockholders on that.

Senator **Taft**. There was a little matter of intervention of Federal law that might have been involved, too.

Thank you.

Senator **Stevenson**. I am afraid we are running way behind schedule, and we must move to our next witness.

Thank you very much, Mr. Lowery and Mr. Scanlon.

(The prepared statement of James Lowery follows:)

Statement
to the
Senate Subcommittee on Migratory Labor

January 13, 1972

James Lowery
Project Director
Center for New Corporate Priorities
Los Angeles, California

Mr. Chairman, my name is James Lowery. I am Project Director of the Center for New Corporate Priorities, a Los Angeles-based research organization which has been examining issues of corporate responsibility for the past 15 months.

Last summer we conducted a two-month research project aimed at identifying some of the causes for the demise of the small farm in California. We concentrated on the importance of financing and credit availability, conducting interviews with farmers, processors, bankers and federal agriculture officials. In addition, we reviewed public records such as bankruptcy files.

For the past two days you have heard the problems of California agriculture defined, redefined, explained and justified. I would like to take a moment to define it as we see it in microcosm in Fresno County--the nation's richest agricultural county--and then to discuss some of the major causes of the current conditions, with emphasis on financing and credit.

I am very pessimistic about the future of Fresno County. A study done by Development Research Associates, Los Angeles, says that the county now has 13,000 unemployed and that this number will climb to 18,000 by 1990. The unemployment rate in the San Joaquin Valley as a whole was 7.6 percent as of November 1971; this condition has been aggravated in the past by in-migration from outlying areas of displaced farm workers seeking employment. DRA expects this in-migration and out-migration to reach equilibrium; in the words of the report, "is is estimated that this equilibrium point will be at an approximate rate of unemployment of 7.5 percent... we estimate that this chronic unemployment condition will persist through 1990 in the absence of dramatic policy changes. There is little reason to expect either economic growth in the Fresno area, public or private job training programs, or reversal in observed agricultural employment trends to alter this condition at the present time."

In many small towns, over half the people are on welfare; there is now relatively little out-migration, for cities such as Fresno cannot absorb the jobless. As of January, 1970, Fresno County had about 30,000 people in need of manpower training and an additional 12,000 unemployed youths in need of training.

And the problem goes beyond farm labor. Between 1964 and 1968, some 17,000 farms ceased to exist in California, many of which were small and independently operated. The Giannini Foundation has predicted that between 1968 and 1975, 30,000 small farmers will have ceased to operate in California. In a study last year, TRW Corp. reported that in the first six months of 1970, the Fresno bankruptcy office (which serves the San Joaquin Valley) processed nearly as many bankruptcies as in all of 1968 and 1969. These farmers themselves join the ranks of the jobless.

TRW concludes, "The state of California has not yet confronted in any organized, coherent manner the fact that it contains, within its borders, depressed areas, such as Fresno and Stockton, roughly equivalent in magnitude to nationally recognized and funded areas such as Appalachia. The unfortunate economic conditions in Fresno are masked behind Fresno County's status as the nation's richest agricultural county."

This is the environment in which some of the nation's largest corporations and financial institutions dominate the economic--and social--reality. One could name the large insurance companies and the Eastern banks which are financing conglomerates and "vertically integrated" ventures in agribusiness. Insurance companies such as Prudential, to give an example, finance many of the transactions involving the purchase of agricultural land. This is an area which certainly needs more study.

The Center for New Corporate Priorities has chosen to concentrate its research to date, however, on some of the food packers and processors which offer financing to farmers, and on Bank of America, the largest financier of California agriculture.

Bank of America provides over 50 percent of the state's agricultural credit, amounting to $1.5-billion in 1970. Its trust department operates 100,000 acres in the San Joaquin Valley. Companies having director interlocks with Bank of America over the past fifteen years own nearly a million acres of agricultural land in the San Joaquin Valley, about one-forth of the total agricultural land. In recent years, several Bank of America officers have been California state agriculture officials at the same time they were employed by the bank--particularly the directors of the California Department of Agriculture under the administrations of both Brown and Reagan. The administrator of the federal farm subsidy program, Kenneth E. Frick, has his land held in a Bank of America trust.

I cite these things to give you an idea of the position of the world's largest bank in California agriculture. Its policies have a profound effect.

So do the credit policies of the food processors and packers, which have been able to exercise great leverage in determining market prices and crop supplies. These companies range from small community packing houses to huge concerns owned by corporations like Tenneco and Del Monte.

We have defined four areas in which banks and food processors are having considerable negative impact on rural life in California. The first is the support by banks of the trend to mechanization, without any consideration for the effects. The second is bank participation in financing the State Water Project--and lobbying for it. The third is the potential influence of gigantic trust holdings. The fourth is the credit policies of banks and packers, and their impact. The emphasis will be placed on this fourth area, credit.

I. Mechanization

The trend towards mechanization is firmly set in California at a rate faster than anyplace else in the United States. Though much of the research and development emerges from the University of California at Davis--we could call it taxpayer-subsidized research for the large growers--a signifigant amount also comes from private corporations which are financed by the big banks interested in seeing their larger customers become "more bankable" through increased efficiency. I mention this trend because together with the banks' support of the California Water Project and their credit policies, it is a trend that means more rural poverty. This seems to have escaped the banks, which were simply interested in sales and profit projections.

The tomato harvester appeared in California in 1961; 95% of the state's tomato harvest (and 50% of the U.S. production) is now harvested mechanically. Mechanization has of course also begun to affect grape production as well. In 1969, 1.9% of Fresno County's wine grape harvest (of a total of 12,800 acres) was harvested by machine; the figure rose to 17.5% in 1970 and probably between 28% and 47% last year, TRW Corp. reports.

The universities and private firms which have contributed in research and development of the tomato harvester and grape harvester include the following:

University of California, Davis
University of Michigan
University of Florida
University of Maryland
Blackwelder Manufacturing Co., Rio Vista, Calif.
H.D. Hume Co.
Food Manufacturing Corp.

Massey-Ferguson

Button Manufacturing Co.

The two principal entities in the development of the tomato harvester were UC Davis and Blackwelder Manufacturing.

Of the total amount spent ($3.3-million) in R & D for the tomato harvester, $2-million was by private firms, including about $490,000 by Blackwelder. Blackwelder's activity in developing the harvester was financed by Crocker-Citizens Bank. We have been unable to calculate to what extent the Bank of America has been involved in financing mechanization, but we were assured by Bank of America agricultural economist John Knechel that BofA has been lending money to companies doing research on mechanization in proportion to "how business has stepped up in that field." Knechel explained the rationale behind BofA's support of mechanization: "The inducements to make loans are found in the profit and loss statements of farmers. It is an economic inducement, the only inducement we recognize...by increasing their efficiency (through mechanization), such companies (large farmers) are making themselves more bankable. It gives them access to more credit."

Such logic, unfortunately, operates in a void of any information about the ultimate social effects. Schmitz and Seckler, in retrospect, have estimated the costs of the tomato harvester in displaced wages to amount to $42.9-million per year by 1973. Similarly, it is estimated that the grape harvester will have displaced 4500 workers by 1973 with a resultant loss of $1.7-million in employment income. Although California banks abound with respected agricultural economists, none of them seemed to have realized that these costs would be borne solely by the displaced workers. They assumed that somehow, county and state resources would mop up the mess. In addition, we have heard from bankers that the new jobs brought by automation would mop up the unemployed; in fact, the new opportunities offered by mechanization will amount to only one-fourth the number of displaced--and there should be no assumption that the displaced will get first shot at these new jobs.

II. California Water Project

The California Water Project, a grand-scale gift to large growers from taxpayers and banks, may have an even more profound effect on rural poverty than mechanization. Aside from its ecological impact and the subsidized water it delivers to California's largest landowners, the Water Project may well be a killing blow to small farmers on the East Side of the San Joaquin Valley.

It brings water to the West Side of the Valley, increasing acreage in production there, so much acreage in fact that there is likely to be a critical oversupply in a number of crops, forcing the small farmer further into his cost-price tailspin. There is a logic, however, to the Water Project to the banks and growers which supported it. Bank of America's big friends can absorb the lower prices for a few years while their smaller competitors go under.

Bank of America and Bankers Trust, New York, were instrumental in the financing of the Water Project; BofA underwrote at least $600-million in bonds, and has been pushing the project since its inception. The bank has said simply that the California Aqueduct would bring more jobs to the West Side of the Valley--a statement in part true, for the new acreage under production there will be devoted to more labor-intensive crops. But again, the net effect seems to have escaped them.

In the first place, the new gains in employment caused by the Water Project will be wiped out by mechanization in the years following 1975. In the second place, there is the price-squeeze aimed at small farmers.

The predicted price-squeeze can be explained very simply in terms of overproduction. The Giannini Institute predicts that there will be one million acres of additional land brought into production due to irrigation in California by 1980, two million acres by 2000. Much of this land (330,000 acres by 1990) is in the West Side of the San Joaquin Valley. Due to the relatively high cost of Water Project water (in spite of the fact that growers are not paying the full price) only certain crops--those with a high enough "cash value" to pay for the water--will be planted there, principally vegetables, fruits and nuts (the so-called "specialty crops"). For example, the West Side will probably plant an additional 173,000 acres of "high value crops" by 1980 and 285,000 acres by 1990.

In Westlands Water District, where Bank of America officers, advisors and customers control one-third of the Water District seats, 115,000 acres will be put into specialty crops by 1990.

Since California produces from 90% to 100% of some of these crops, the implications are clear. There will be oversupply, or what the Giannini Institute calls "excess acreage." By 1980, there will be an excess of 75,000 acres of tree fruit, nuts and grapes and 51,000 acres of vegetables. One way of looking at this is that over 80 percent of the new acres on the West Side will be excess.

According to the Institute, the price impact would be considerable: deciduous fruit prices would decline 5 to 7 percent, almond prices 4 to 9 percent, grapes 9 to 12 percent and oranges 2 to 4 percent. Given past experience, little of these declines will be passed on to the consumer.

The large corporate growers, especially those with considerable non-farm income, can absorb these price declines for a few years; the small competitor can't. TRW Corp. puts the issue more bluntly:

> It should be noted that, given the structure of corporate agriculture, and the trend toward small farmers leaving agriculture, there is a potential on the westside for a serious effort being made by corporate agricultural interests to drive independent farmers on the eastside of the Valley out, by planting the same crops...with the corporate agricultural interests taking a loss for several years which they are able to absorb...therefore, allowing them to purchase lands on the eastside when the individual farmers leave agriculture.

Which growers are involved in specialty crops? Tenneco, owner of Kern County Land Co., has thousands of acres of citrus, almonds and grapes; Kaiser Aluminum is the world's largest producer of walnuts.

Perhaps Bank of America did not anticipate this effect of water on crop distribution and prices. But not coincidentally, the bank is interconnected with a number of beneficiaries of the Water Project. In Westlands Water District, as the following chart shows, BofA "friends" have received a large public subsidy in land value from the Water Project, calculated at $300-an-acre increase (from information in Land and Power in California):

Subsidies on Land Value, Westlands Water District

grower	acreage	Subsidy: increase in land value
Wm. J. Deal (Bank of America Agricultural Advisory Board)	9,852	$2.96-million
Russell Giffen (Bank of America customer)	45,159	13.50-million
South Lake Farms (Harry S. Baker, Bank of America director)	10,335	3.10-million
Standard Oil (R.A. Peterson, Bank of America and Standard Oil of Calif. director)	10,474	3.14-million

In addition, Getty Oil Co., whose board of directors includes Bank of America directors G.F. Getty, Louis B. Lundborg and C.J. Medberry, will put 30,000 acres of new land into production because of the Water Project. There are other interlocks with Water Project beneficiaries listed in the Appendix.

More importantly, BofA officials have been lobbying for the project. To give you just one example, the bank's Senior Vice President Alan Brown publicly backed

Proposition 7 in 1970 to bail the project out. Proposition 7 raised the ceiling for bond interest on all state bonds, at a time when California had $600-million in unsold Water Project bonds.

I think the above examples give you a hint as to why the world's largest bank was backing the Water Project.

III. Trust funds

The third area of concentration of agricultural power is bank trust funds. I mention it primarily because the scant facts that we have indicate there is an abnormal concentration of power which at the very least hinders representation of the public interest in decisions about agriculture.

Let's take two examples. First, Bank of America operates 100,000 acres of agricultural land with an aggregate production of $2-million per year in the San Joaquin Valley. In all, Bank of America's $3.7-billion (1970 figure) trust holdings include almost half a billion dollars in real estate and mortgages. I simply ask what are the implications--for farm labor, small farmers and poverty--of such immense land holdings, if the managers of the trust funds are also in effect representatives of large agricultural interests?

Second, the stock holdings of the major banks' trust funds could have a signifigant impact on the course of agriculture. One of the trust funds for which we have stockholdings listed is the Bank of America-Giannini Foundation. This foundation, as of the beginning of 1969, owned shares in Del Monte, Bank of America NT & SA, Pacific Gas & Electric and Standard Oil of California, to name a few companies which are heavily involved in California agriculture. Another simple question: if this pattern is continued through the $1.9-billion or more in BofA trust dept. stock holdings, is it likely that any policies not promoting the welfare of these corporations would be followed by Bank of America?

IV. Credit

I feel that the availability of credit is the single thing now which could revitalize rural areas. The Water Project is almost completed, the effects of mechanization have begun and are perhaps irreversible. Yet the banks still have the opportunity to adjust their credit policies in agriculture, if they accept that it is good for agriculture in the long run, and if they are prodded to do so.

There is an important reason why it is imperative now to make available more reasonable production credit--the annual loans needed for planting, fertilizing, pruning and harvesting--to small farmers. If present small farmers do not have adequate credit, then they will certainly go under, and no one but the wealthiest individuals and the corporations can replace them, because of the extremely high costs of purchasing land and equipment. In 1950, average farm size was 260 acres and average capital investment $41,000. By 1969, the size had risen to 616 acres and investment to $327,000: while farm size had increased two-and-a-half times, investment rose 20 times. Another way to put it is that capital investment has risen about eight times as fast as farm income. One farmer told us he had just invested $57,000 to plant 37½ acres of citrus--a very small farm. In short, new entry into California agriculture is closed for the small. The ones who still exist may not, unless production credit loosens.

The small farmer is at a definite disadvantage in production financing. Each year he will need funds for his pre-harvest and harvest costs (pruning, fertilizers, pesticides, purchase and maintenance of equipment). In California, this comes to an average of $60,000 for a 616 acre farm, including such items as depreciation, taxes, interest, etc. An indication of production credit needed annually is given by the following chart, compiled from University of California and California Department of Agriculture figures.

ANNUAL PRODUCTION COSTS

crop	preharvest cash & labor (cost per acre)	total production cost per acre
Emperor grapes	$ 303.48	$ 532.09
Thompson seedless grapes	191.23	364.45 (except harvesting)
Navel oranges	380.00	616.03
Cardinal peaches	615.83	1215.36

For such costs, the farmer has only a few alternatives for credit (if he is not large enough to generate internal financing). He can go to a private commercial bank, to the Production Credit Association (a national lending cooperative), or to a packing house or food processor.

The Farm Credit Service calculates that short and intermediate credit (for pre-harvest and harvest costs, and equipment) in United States agriculture comes from the following sources:

Commercial banks	38.2%
Production Credit Association and Intermediate Credit Banks	17.4%
Dealers and individuals (including packers and processors)	41.5%
Farmers Home Administration	2.9%

Some of the options, however, are closing. The trend is briefly as follows: the large banks are cutting back on production loans to small farms. The Production

Credit Association is not an adequate option for the many restrictions it puts on loans. Therefore, the small farmer must go to a packer or processor, where he is put at a market disadvantage. No wonder he fails. Fresno bankruptcy records show that most small farms going under are in debt to packers, not banks.

Let's look at how this squeeze works in more detail.

Commercial banks have traditionally provided financing, but in recent years the availability of credit for small farmers has declined. The Bank of America, which provides $800-million to $1-billion in production credit each year, has in its own words "taken a hard look" at loans to small farmers. Bank representatives tell us that those who have been financed by the Bank of America in the past will have "moderate" difficulty in getting new loans, and farmers who have not been financed by BofA will have a "very difficult" time getting a loan.

The reason given by the banks for discouraging loans to small farmers is that small farms are less efficient than larger growers and therefore are greater risks. This is but a circular argument: they are greater risks because they can't get adequate credit.

For a number of signifigant crops in California, such as grapes, citrus, nuts or even cotton, the small farmer ought not to be in an unfavorable position. His cost per ton and yield per acre are often better than larger growers, and are usually as good. Conversly, the alleged "efficiency" of the largest growers is something approaching a hoax. Russell Giffen and J.G. Boswell are getting ample credit because they can manipulate land to get maximum federal subsidies and because their water and mechanization are subsidized. It is clear to us that efficiency and inefficiency have nothing to do with the availability of credit.

I would like to relate an anecdote told to us by Bank of America trust officers. It puts into perspective just what ample credit could do.

Several years ago, an elderly farmer and his wife both died, willing their 1000 acres of cotton and other crops to Bank of America's trust department, under the conditions of the mortgage. The trust officer said that this farm "would have gone bankrupt in two years." On receiving the property, the bank put its own money into the farm, hired the couple's son for $7000 per year, and in two years put the farm in the black. This year, the bank trust officers say, the farm will turn a profit of several thousand dollars; this will climb to many times that within another year or two. This seems to say that a few other farms might be brought from the near-dead with adequate credit.

Banks have several policies which favor their larger customers. One is the carryover of production credit. When the production loan comes due each year, the bank has a choice to carry it over to the next year, or foreclose. For its larger customers, such as Russell Giffen, owner of 45,000 acres in Westlands Water District, the bank uses the carryover, and grants him new credit as well. Giffen has been allowed to carry over several hundred thousand dollars in indebtedness because, according to the Fresno trust officers, the bank cannot "afford" to foreclose on him. However they show no reluctance to foreclose on smaller farms whose debt may be one-tenth that of Giffen. Perhaps the message here is that inefficiency and mismanagement are to be rewarded if it is done on a grand enough scale.

Banks can also favor the larger growers through the "maximum indebtedness" which they set as a requirement for loans. A certain portion of the farmer's property must be free of indebtedness in order to qualify for a loan; the banks adjust this percentage according to size, and thus can easily exclude the smaller farmer.

Production Credit Association, a national lending cooperative, is an option with prohibitive restrictions, according to some farmers we interviewed. PCA loans are more restrictive than bank loans: the farmer must use his loan only for pre-harvest and harvest costs. PCA also offers some intermediate credit for purchase of machinery such as tractors. The cost of such credit is usually one to two percent lower than bank credit, but the farmer is held to a tight annual budget, since loans are granted in increments. Finally, the farmer must meet a maximum indebtedness-per-acre requirement. For vineyards, as an example, this amounts to $900 per acre maximum.

Because of PCA and bank restrictions, many small farmers are left with only one alternative, packers and processors. Both smaller local packing houses, and much larger concerns owned by conglomerates--such as the Del Rey packing house modernized by Tenneco last summer for $450,000--offer such credit. The Fresno City and County Chamber of Commerce lists the following number of packers and processors (for fruits, vegetables and cotton) in Fresno County:

cotton ginning and compressing	7
fruit and vegetable packing	12
fruit and vegetable canning	4
dried fruits and vegetables	16
frozen fruits and vegetables	3
fresh fruits and vegetables	34

The farmer has two schemes for packing house financing available; both put him at a market disadvantage, and both could cause him to fail. The first is for the packer to lend to the farmer, using the crop for security. Such loans usually carry interest charges one to two percent higher than the bank rate, and in some cases it is specified in the agreement that the interest rate is one percent higher than the prevailing Bank of America rate. For the farmer there is a disadvantage, namely the fact that fluctuations in prices will greatly affect his ability to repay the loan. Since the packing house negotiates the prices at which crops will be sold to marketing outlets, the farmer may not benefit much at all, and may in fact end up owing the packing house money at the end of the year in the event that his income does not cover the packing costs. In the present market, such price squeezes have been increasing.

The second scheme is for the packing house to offer the farmer a guaranteed minimum price at the beginning of the season for his crop, and give him a no-interest advance on the payment, to cover pre-harvest and harvest costs. Theoretically, this shifts the risk of price fluctuations to the packer: if the market price at harvest time is greater than the price agreed upon, the packing house takes the difference; if the price is lower, the packing house will suffer a loss. But the determining factor here is the choice of the price. Usually it is offered by the packing house and not open for negotiation; it is often close to the lowest price for that crop in the previous year.

The packers can also use their credit leverage to dictate supply. Let me give an example. Several years ago, when wholesale peach prices in the San Joaquin Valley were high, Del Monte began offering incentive financing to farmers who would increase their acreage of peaches. The result is now being felt; as these new plantings matured, there developed an oversupply of peaches, driving down the wholesale price which Del Monte pays. Retail prices, however, have not dropped proportionately. Because of this, the oversupply is no problem to Del Monte, but the farmer is stuck with excess plantings of a permanent crop, and low prices.

Of course once the farmer is in debt to a processor, he may not be able to go elsewhere for credit. The cycle could very well end with his going bankrupt. And not because of any inherent inefficiency-- simply because of size.

The causes of poverty, rural unemployment, farm bankruptcies, as you can see, are pretty complex. It's almost hard to define who's responsible, and whether in fact the financial institutions really share that responsibility. But in this case, ignorance is not a defense. If you are impressed like I am with a sense of pessimism and futility about the future of rural California, you might be amazed at this document published by Bank of America in 1970, "Focus on Fresno County." According to this pamphlet, there are no major problems in the Central Valley, at least none which the investor ought to be concerned about. It says here that employment is going to go up (but fails to mention that it will parallel continuing farmer and farm worker unemployment), it says that there will be industrial growth and that there will be more jobs because of the Water Project (but fails to mention the problems it will bring). The need for Fresno County to offer job training and relocating of displaced workers is mentioned in the same breath as the need for the county to "increase its efficiency in raising agricultural products." The pamphlet assures us that "Bank of America is the bank that knows Fresno County best"; after all, it has "Men on the Spot" in 22 locations there. I don't think that the "Men on the Spot" really know the implications of the $1.5-billion a year the bank pours into agriculture. If the bank does know, it does not act with a social conscience.

Anyway, like other major American corporations, Bank of America has a way of making its point of view come true. An agricultural credit officer told an interviewer last summer that the major criterion in selecting which farmers will get credit is "we're trying to identify those people who're going to be around in 1980." Well, now who's deciding who's going to be around in 1980? Aside from stating once again that its own credit policies are going to decide, let's look at a few of the people who've been deciding, in the appendix to this testimony:

Earl Coke, former Bank of America officer, and Robert Long, presently a bank officer, are directors of the UC agricultural extension which conducted research on mechanization for large growers. Jesse W. Tapp, another top officer, was on the President's Commission on Agricultural Policy, and was Assistant Secretary of

Agriculture (U.S.). He was also Gov. Brown's Director of the California Department of Agriculture when he was a bank officer. Earl Coke was Reagan's director of the California Department of Agriculture, also concurrently with his position as bank officer, and was an Assistant Secretary of Agriculture for the U.S. as well. The list continues for pages: corporations, official positions, lobbying groups. I need say no more about what these interrelationships mean for decision-making in agriculture, and whose interests are being represented.

Let's talk to the issue directly: what responsibility does a bank which lends $1.5-billion a year to agriculture have--what responsibility does a food processor who offers credit have--towards seeing that such loans don't cause social havoc, or poverty? We think that it's unfair for corporations to put the cost of their poor or non-existent social decision-making on the unemployed, the jobless, and on the taxpayer. In other words, financiers must be a "catalyst for social change," to borrow a phrase from the BofA 1970 annual report. (I should qualify that they ought to be a catalyst for positive social change, not negative.)

The first step is for the corporation to acknowledge that there are social costs; BofA apparently has a "social accounting" scheme called "Arithmetic of Quality," but I have not seen it work in agriculture. The second is to do something substantial to offset the social costs already incurred; I see little of this either. The third is to anticipate social costs in present and future policies. As you have seen from Bank of America's statements with regard to credit, there is none of this either. And I think there is little likelihood that this will change, if past performances by America's major corporations give any indication.

What is the place of the government in all of this? At the very least, federal agricultural policies are not exactly discouraging the concentration of credit in the hands of the big. Banks are lending to such giants as Boswell and Giffen because federal subsidies are making them "bankable." I suggest that a change in federal policies to give the small farmer a chance--which by his efficiency he ought to have anyway--might give incentives for banks to lend money there.

We must somehow offset the tremendous inertia of our giant agribusiness companies and their billion-dollar lenders. We know what it is doing to rural life.

APPENDIX: Bank of America Director Interlocks with Agribusiness

The following appendix documents the interlocking directorships between BankAmerica Corp. (and its affiliates) and other companies involved in agribusiness at the farming, processing and distribution levels, and with public agencies and lobbies concerned with agriculture. Land ownership figures are included where available; their accuracy is not in all cases assured, due to the limited sources of easily available land-ownership data (including annual reports, water district compilations and the Nader study, Land and Power in California).

Where Bank of America directors are listed, numbers refer to the following associations:

1=BankAmerica Corp. director
2=Bank of America NT & SA director
3=Bank of America New York director
4=Bank of America Managing Committee member

A. Bank of America directors and agribusiness interlocks

HARRY S. BAKER (director-2)

Producers Cotton Oil Co.		
South Lake Farms	54,000	acres
Lake Bed Farms	1,077	
California Flax	8,120	
Pleasant Valley Farm Co.	8,437	
J.E. O'Neill	4,480	
Thunderbird Farms		
Painted Rock Ranch	6,000	
Delta Cotton Co.		
Arizona Farming Co.		
Maricopa Cotton Gin Co.	5,000	
Santa Rita Ginning Co.		
Agricultural Seed Co. of Arizona		
Totem Pole Real Estate Co.		
Prodco Warehouse		

LOUIS A. PETRI (director-2)

L.A.P. Inc.
Allied Grape Growers
Napaco Vineyards
Ballard Ranch
United Vintners/Italian-Swiss
  Colony of America
Petri Wine Co.
North Point Land Co.

Appendix, 2

FRED FERROGGIARO (director-2)		
Cortaro Farms		
Allied Properties (Taylor Ranch)	15,000	acres + 44,000 leased
Krug Winery		
ROBERT DI GIORGIO (director-1,2)		
DiGiorgio Corp.	27,000	
S&W Fine Foods Corp.		
Tree Sweet Products Co.		
THOMAS McDANIEL JR. (director- 1,2)		
Kern County Land Co.	350,000	
F.D. MURPHY (director-2)		
Tejon Ranch (51% owned by Times-Mirror)	348,000	
BEVERLY WARNER (director-3)		
Corn Products Co.		
D.P. BRYANT (director-2)		
Bryant Ranch	10,000	
R.A. PETERSON (director-1,2,3)		
Union Sugar (Consolidated Foods)	11,200	
P.C. HALE (director-2)		
Leslie Properties	59,000	
Hale Bros. Realty		
FRANCES HERWOOD (Senior Vice President, Loans)		
Rancho Visatadores		
ROBERT W. LONG (Senior Vice President, Agriculture)		
Irvine Ranch	101,600	
Sunkist Growers		

Appendix, 3

A.H. BRAWNER (Executive Vice President)

Del Monte Corp.	21,220

B. Corporations with Bank of America interlocks

STANDARD OIL CO. OF CALIFORNIA (306,000 acres)

R.A. Peterson (director-1,2,3)

UNION OIL CO. OF CALIFORNIA (about 50,000 acres, most of which is leased)

P.C. Hale (director-2)
Robert DiGiorgio (director-1,2)

GETTY OIL COMPANY (There are 90,000 acres "adaptable to agriculture or other development in fee in California," the company reports; in western Kern County, 30,000 acres of previously desert land are scheduled to receive water from the Feather River Project.)

G. F. Getty (director-2)
Louis B. Lundborg (director-1,2,3,4)
C.J. Medberry (director-1,2,4; chairman)

DI GIORGIO CORP. (Subsidiaries include DiGiorgio Fruit Corp., Earl Fruit Co., N.Y. Fruit Auction, Philadelphia Fruit Exchange, DiGiorgio Development Corp. and Guaranteed Products. DiGiorgio acreage breaks down as follows: Sierra Vista Ranch (Delano, 800 acres); DiGiorgio Farms (Bakersfield, 7500 acres); Danton's Orchard (Marysville, 1500 acres) and New England Orchard (Marysville, 900 acres).

Robert DiGiorgio (director-1,2)
A.E. Sbarboro (director-2)
C.F. Wente (director-2)
P.C. Hale (director-2)

FOREMOST-McKESSON-ROBBINS (Includes Foremost Dairies)

C.F. Wente (director-2)
P.C. Hale (director-2)
L.A. Petri (director-2)

KAISER INDUSTRIES (Land holdings include Rancho California (98,000 acres of agriculturally-oriented land between Los Angeles and San Diego); Aliso Ranch (6000 acres in San Joaquin Valley); Kellog Dam Ranch (5200 acres in Contra Costa); Butte Farms (1040 acres of orchards in the Sacramento Valley); Rancho Ventura (10,000 acres).

E.F. Kaiser (director-1,2)
F. A. Ferroggiaro (director-2)

Appendix, 4

GEORGIA PACIFIC COMPANY (This lumber company is currently converting timber land to orchard in Northern California and planting apples and pears.)

S.C. Biese (director-2)
O.R. Cheatham (past director)

PACIFIC LIGHTING CO. (This utility has diversified into the field of agribusiness. It acquired W.C. Fowler and Sons Farm Management Co. and is "engaged in land acquisition, farming, packing and marketing of lands and products in Tulare, Kern and Madera counties for investor-owners." Recently Pacific Lighting bought Blue Goose growers for $22-million, adding 28 entities and 10,026 acres.)

D.P. Bryant (director-2)
A.H. Brawner (Executive Vice President)
P.C. Hale (director-2)

CONSOLIDATED FOODS (Owns Union Sugar Co., with 11,200 acres.)

R.A. Peterson (director-2)
Roland Tognazzini (director-2)

TIMES-MIRROR CO. (Owns 51% of Tejon Ranch, with 348,000 acres.)

F.D. Murphy (director-2)
L.S. Dillingham (director-1,2)

PACIFIC VEGETABLE OIL CO.

Robert DiGiorgio (director-1,2)
P.C. Hale (director-2)

BORDEN

A.R. Marusi (director-3)

DEL MONTE

A.H. Brawner (Executive Vice President)

NORTON SIMON

F.D. Murphy (director-2)

H.J. HEINZ

R.B. Gookin (director-3)

VON'S GROCERIES

Theodore Von der Ahe (director 1,2)

LUCKY STORES

Fred Ferroggiaro (director-2)

Appendix, 5

C. Government positions and lobbying groups

PRESIDENT'S COMMISSION ON AGRICULTURAL POLICY

J.W. Tapp, past Bank of America officer, was concurrently a member of this commission.

U.S. DEPARTMENT OF AGRICULTURE

Earl Coke, past Bank of America officer, was concurrently Assistant Secretary of Agriculture.
J.W. Tapp, past Bank of America officer, was concurrently Assistant Secretary of Agriculture.

CALIFORNIA DEPARTMENT OF AGRICULTURE

Earl Coke, past Bank of America officer, was concurrently director of this department in Gov. Reagan's first term.
J.W. Tapp, past Bank of America officer, was concurrently director of this department in Gov. Brown's administration.

AGRICULTURE-BUSINESS COUNCIL (lobbying group)

Robert W. Long, director (Senior Vice President, Agriculture)
Beverly Warner, director (director-3)

COUNCIL OF CALIFORNIA GROWERS

Robert W. Long, director (Senior Vice President, Agriculture)

WINE INSTITUTE

L.A. Petri, director (director-2)

CALIFORNIA RETAILERS ASSOCIATION

P.C. Hale, director (director-2)

NATIONAL ASSOCIATION OF FOOD CHAINS

Theodore Von der Ahe, director (director-1,2)

CALIFORNIA WATER RESOURCES ASSOCIATION

J.F. Herwood (Senior Vice President, Loans)

Appendix, 6

D. Bank of America interlocks with California Water Project contractors

KAISER INDUSTRIES (Won a $4-million contract to lay the South Bay Aqueduct from the Department of Water Resources.)

E. F. Kaiser (director-1,2)
F. A. Ferroggiaro (director-2)

PACIFIC GAS AND ELECTRIC CO. (Has contracts on the Suppliers, Inertie, and Oroville-Thermalito agreements. Has a series of hydro-plants on the Feather River and may supply power for the Tehachapi pumps.)

C.F. Wente (director-2)

SOUTHERN CALIFORNIA EDISON (Contractor on Suppliers, Inertie, Oroville-Thermolito and Pyramid-Castaic power agreements.)

T.M. McDaniel, president (director-1,2)
P.C. Hale (director-2)

"We Merely Make Loans" , A Report of the Center for New Corporate Priorities, Bank of America Project, 304 South Ardmore, Los Angeles, Cal. 90020, March '71

introduction:

"we merely make loans"

It is with curious logic that the American corporation views its "responsibility." When a Bank of America economist was recently asked what the bank's role is in influencing California agriculture toward mechanization and therefore further hardships for farm workers, he disclaimed any responsibility, saying "we merely make loans."

But when it suits the bank's profit and public image, Bank of America will counter criticism of its treatment of minorities by saying "we're helping the community. Look, we make loans."

Corporations, in short, control the concepts with which we measure them: social responsibility, responsiveness, creativity.

They also control the issues, once they decide it is in their interest to be "responsible" for them. For UC Santa Barbara students, the war had been their issue; they took the Bank of America's Isla Vista branch away, and the bank took their issue away. "The war is bad," said Chairman Louis Lundborg then to every student group he met. Now that the bank controlled the Vietnam issue (Lundborg suddenly received a barrage of invitations to speak before peace groups), it had "social responsibility." Generously, Bank of America began sharing it with students and citizen groups.

"Social responsibility," as a matter of fact, is a commodity. Once a corporation has bought it, it has insurance against unwanted change.

Wanted change is a different story. The Bank of America proudly claims credit for the progress of California agriculture and for millions of middle-class homes. Bank founder A.P. Giannini, his followers relate, was a hard-nosed, powerful man with many connections, who built the world's largest bank, a symbol of prosperity. That is positive change.

But why should the Bank of America use its power to help end the war, or to pressure its polluting customers to stop? A Senior Vice President recently stated -- sincerely -- "I am frightened at the concept of a corporation having that much power in politics; do you think the corporation should have that much power?"

Of course the corporation already has that power.

Many executives claim it was unsought, that power concentrates in certain hands because of "man's inherent greed," "basic business principles." In short, it was delegated by the hard facts. By which they mean the hard economic facts.

There are also hard human facts. They delegate power to the people who challenge an outdated, stifling value structure. That is the reason for the Bank of America Project research which follows.

It focuses on responsibility. It does not attempt to place it consistently in a particular executive office at a particular point in time (although there are some such references); rather, it presents a much more complex picture designed not to absolve any person within that picture, but to challenge each of them to creative solutions for this society's survival.

The Bank of America Project need not elaborate that it is a time for creative survival tactics.

There are also
hard human facts.
They delegate
power to the
people...

agribusiness :

The Bank of America is interested in mechanized farming. We invest in mechanized field packing, a 1969 Bank ad proclaims in the Sacramento Bee. "If you're interested in vegetables, we're interested in you."

There are some people interested in vegetables whom the Bank of America ignores -- California's small growers and farm workers.

By 1973, almost 4,500 workers will be unemployed as a result of the mechanized grape harvester. And small growers will not be able to afford such machinery.[1]

In a recent phone conversation, when asked if Bank of America is subsidizing research efforts into farm mechanization, John Knechel, the bank's agricultural economist, replied, "We don't subsidize anyone -- We are not a government agency. We do give loans, and some of our customers are companies doing research on mechanization." Knechel explained that often the bank does not know what loans will be used for specifically; inducements for giving loans, he said are "found in the profit and loss statement of farms. It is an economic inducement, the only inducement we recognize."

Rightly, Mr. Knechel states the relationship between the bank's economic power and "progress" in agriculture. The bank's loans promote greater efficiency. Knechel explains, "by increasing their efficiency (through mechanization), such companies are making themselves more bankable. It gives them access to more credit."

Meanwhile, it gives small growers less access to economic power. The Bank of America views this trend somewhat fatally: "The reality is that many small, full-time family farms have become uneconomic," states the bank's publication California: People, Problems, Potential.[2] A flock of statistics about productivity, acreage and population has apparently swooped down upon the small grower and threatens to swallow him, the book implies.

What small growers must indeed contend with is a free-market system which restricts their borrowing power. They cannot get loans from banks like Bank of America, so they must rely on financing called "growing contracts" from food processors. By such a contract, the grower produces a specified amount of a crop for the processor at market price. If he produces a surplus, that goes to the processor at a reduced price; if he produces less than contract, he is penalized. The processor, protected from any loss, of course has an open line of credit to the bank.

R.A. Peterson, past Bank of America president, had given the small grower's dilemma some thought, but he rejected any program to buoy him up. In 1968, he told the California Canners and Growers that "to maintain uneconomic farm units by federal policy is not only bad economics, but a cruel social injustice to industrious people who deserve a better shake."[3]

By "better shake," Bank of America means phase out the small landowner. The rationale to initiate a "voluntary land retirement program," according to California: People, Problems, Potential, is that it "should allow the maximum freedom of market forces possible, to enable the healthy, competitive, commercial segment of agriculture to seek its own level of profitable operation"[4] -- in other words, make the market free by excluding many of its participants.

• "The reality is that many small, full-time family farms have become uneconomic."

The bank concedes that small growers have alternatives. Mr. Peterson defines them: "1) move up to commercial scale farming; 2) retrain for another job; 3) retire."[5] Where is the fourth alternative?

One direct investment of the Bank of America, the California Water Project, certainly doesn't open up any new options. The bank holds $150-million in the water plan's bonds. Senior Vice President Robert Long admits that the plan is designed for large corporate growers and will offer water too expensive for small growers to afford.

(In addition, the Water Project threatens the ecology of San Francisco Bay and of Northern California. In return, admittedly, Bank of America has saved Californians 600 trees by publishing its 1970 Annual Report on recycled paper. An announcement to that effect, on the back page of the report, ironically, by the same mathematics cost Californians 30 trees.)

"we have no formal lobby on farm labor."

Amidst all the social impact its agribusiness investments have, the bank attempts to convey a neutral position. According to Bank of America's John Knechel, the company takes no stand on the issue of farm labor; "we have no formal lobby on farm labor," he says.[6] Consistently, President Clausen claims to the public that Bank of America is not taking sides in labor disputes. A brief episode between the Bank of America and the United Farm Workers Organizing Committee in 1968 contradicts that.

The bank, namely, had owned 5,500 acres of land near Delano, which it had secured after foreclosing on a mortgage owned by Mr. P.J. Divizich. Agribusiness Investment Company was set up to lease the land from the bank and operate it. With the grape boycott in full swing, UFWOC approached the bank to set up negotiations. Bank of America replied in a telegram to Cesar Chavez, "the Bank has leased the grape producing properties you mentioned to Agribusiness Enterprises (Agribusiness Investment Co.), and consequently is not operating the ranch."[7] Also, Mr. Fred Morgan, an attorney for the bank, told UFWOC attorney Jerome Cohen that the bank had no obligation under federal law to negotiate with the farm workers.

Agribusiness Investment Company, the convenient shield between the bank and its responsibility for farm workers, had been founded when the bank foreclosed on Divizich's property. Four days after its founding, Agribusiness Investment signed a lease with Bank of America to manage the property. The signatories: Alvin McNeil and Jack D. Swaner (two attorneys for the bank and also President and Vice-President of Agribusiness Investment), and E. A. Iverson and C. E. Cooper, bank Vice Presidents.

Divizich was as displeased with Agribusiness Investment as the farm workers were. In the first year the bank's paper corporation operated his land, it caused Divizich's grape tonnage to drop from 33,000 to 20,000. Divizich sued Bank of America for mismanagement, an action still pending.

There are other examples of the bank's taking sides in California agribusiness, one of them bank management's support of the Bracero Program.

Before 1964, growers could bring bracero labor into California -- Mexican farm workers who received seasonal contracts to come across the border to work. The arrangement, of course, ignored domestic workers' needs for decent housing, wages and living standards by importing Mexicans for whom the growers were not responsible. When Senator George Murphy introduced a bill in 1970 to restore the Bracero Program, Bank of America President A. W. Clausen called the bill "just."[8] Robert Long said it provided "a necessary labor force unavailable elsewhere."[9] Long also stated that the farm workers "aren't so bad off" as people think.

The Bank of America thinks about California agribusiness from its own point of view. With directors and management from DiGiorgio, Von's and Foremost-McKesson on its board of directors, the bank shares their problems and enjoys their bright outlooks. There is, indeed, a bright outlook for mechanized farming, for plenty of water for large growers. Meanwhile, Bank of America and its friends must live with their problems. "The efforts of farm workers to organize," a bank research compilation says, "have...cast a shadow over the San Joaquin Valley."

"The efforts of farm workers to organize have cast a shadow over the San Joaquin Valley.

The Bank of America Project is indebted to the following people and groups for their generous help in this research effort. We thank you:

Fred Goff, Michael Sweeney, of NACLA and the Pacific Studies Center, respectively; the United Farm Workers Organizing Committee; the California Migrant Ministry.

NOTES

IV. Agribusiness

1 "Mechanized Grape Harvesting and Displacement of Farmworkers," Fresno County Economic Opportunities Commission Report, 1970.

2 *California: People, Problems, Potential*, p. 15-16.

3 Speech by R. A. Peterson to Calif. Canners and Growers, San Francisco Hilton, 1968.

4 *California: People...*, op. cit., p. 15-16.

5 Speech by R. A. Peterson, op. cit.

6 Interview with John Knechel, Agricultural economist for Bank of America, 3/2/71.

7 Telegram from Bank of America signed by E. A. Iverson, 10/26/68.

8 Interview by a College Press Service reporter, Fall 1970.

9 Ibid.

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BANK OF AMERICA: BIG COAST TARGET

For Bombers and Critics, It's a Favorite Enemy Now

By STEVEN V. ROBERTS

Special to The New York Times

LOS ANGELES, May 13—A visitor asked a friend the other day how to find the Bank of America headquarters. "That's easy," came the reply. "Just follow the smoke."

Officials at the Bank of America, the largest nongovernmental bank in the world, do not find such remarks funny. In February, 1970, one of bank's branches was burned down during riots in the student community of Isla Vista.

Since then, branches have been attacked 39 times — 22 times by explosive devices and 17 by fire bombs or arson. Three attacks took place last week—one in Berkeley and two in the San Fernando Valley, a suburb of Los Angeles.

"Its a damn serious problem because of the frequency," said P. E. Sullivan, an executive vice president of the bank, in an interview. "If it continues at this pace it's bound to have an effect on our customers and employes."

Other Critics Are Vocal

The bombings coincide with a barrage of criticism that has been aimed at bank policies over the past year. Most of the critics disavow the bombers, and feel that the attacks only divert attention from bank activities that they contend are immoral.

The physical assaults on the Bank of America are part of a broader pattern in California. Gov. Ronald Reagan said recently that there were 4,443 bomb threats during the last 10 months of 1970, and that there were 1,052 incidents in which bombs were found.

Targets ranged from Los Angeles City Hall and buildings at Stanford University to a suburban supermarket. But the Bank of America, whose 990 branches make it as ubiquitous as fried chicken franchises, is the central focus. Why?

After Isla Vista, a student was reported having said, "the Bank was the biggest capitalist establishment around — an example of American capitalism which is killing people around the world and in the United

[illegible] featuring the bank-burning at Isla Vista are still big sellers in campus bookstores. Officials also cite the "copycat" syndrome. The only person arrested for any of the bombings was a 16-year-old boy from Mill Valley who told the police that "it seemed like the thing to do," according to Mr. Sullivan.

All Bombings at Night

Most of the devices have been crude pipe bombs stuffed with gunpowder. All have been set at night, and no one has been injured. The bombers seem to share a premise current among some radicals: Violence against property is all right, but not against people.

At the same time, the Bank of America has been attacked with words — thousands of them. The Center for New Corporate Priorities, started by students at the University of Southern California, has charged that the bank supports large farmers, thus repressing farm workers, and that it finances economic imperialism abroad, yet refuses to help minorities at home.

The Center's major complaint, however, is the bank's involvement in Vietnam.

Bank officials have many times "specifically rejected the charge that we as an institution support and profit from the war in Vietnam." The bank also distributes personal statements by its officers who oppose the conflict.

War Goods Are Financial

Mr. Sullivan readily acknowledged, however, that "we finance many companies who produce goods and matériel used in the war." He added, "We have a role in letting our opinions be known about the war, but we shouldn't let those opinions cloud our banking decisions."

The root of the conflict between the bank and its critics is not over facts, but over premises. The bank continues to believe that "banking decisions" should be made, as Mr. Sullivan put it, on the basis of "economics, not politics." Profit is still its major goal.

To Ed Scanlon, of the Center for New Corporate Priorities, this attitude only "feeds the status quo" and does nothing to alter basic power relationships in the society. Louis B. Lundborg, who recently retired as chairman of the bank's board, recognized this cleavage in a speech last year.

"We are facing a real honest-to-God disenchantment," he said, "not just a passing momentary flare-up that will go away if we just keep it cool for a while. There is a new values system emerging in America, starting with the

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AMERICAN BANKER

November 3, 1971

BofA Issues Detailed Rebuttal to Charges of Social Irresponsibility

Special to the American Banker

SAN FRANCISCO.—Bank of America NT&SA has prepared a detailed rebuttal to a pamphlet which had charged the $27.8 billion-deposit bank with social irresponsibility in connection with many of its activities at home and abroad.

The document, "Anatomy of an Accusation," was prepared by Geoff Brouillette of the public relations staff for internal use by the bank's officers who often are confronted with the type of questions raised in the critical pamphlet.

The BofA rebuttal was made in response to, "We Merely Make Loans," a pamphlet published last March just before the BofA annual meeting by the Center for New Corporate Priorities.

The center charged that the bank was insensitive to the public's needs and socially irresponsible in connection with the war in Southeast Asia, the financing of a copper venture on the South Pacific island of Bougainville, the handling of minority loans and employment and the financing of agricultural business in California.

The Los Angeles-based center was founded in 1970 by a group of students, most from the University of California at Los Angeles and the University of Southern California. The center, however, is staffed by full-time personnel, including a USC doctoral candidate who was once a summer intern in New York at Business Week magazine and later a part-time reporter for its Los Angeles bureau.

James F. Langton, senior vice president for public relations, decided on a more detailed rebuttal than most corporations, including BofA, usually give to charges raised against them mainly, he said, because he was intrigued by the persuasiveness of what he considered an out-of-context and generally unfair document.

Moreover, since the charges contained in the pamphlet were representative of those often raised by critics of the bank, Mr. Langton said he thought a detailed answer would be useful to the officers who on occasion are called upon to defend the bank in public.

"We don't consider the center particularly noteworthy or significant among the many critics," Mr. Brouillette explained. "There are many groups making the same or similar charges, but this seemed to be more rationally presented than the others."

In his answering document, Mr. Brouillette sets down in the left-hand column of each page the complete text of "We Merely Make Loans." In the right hand column and in a different type face, he responds to most of the specific and implied charges. The original document ran to 23 pages with another page of notes. The BofA answer is 49 pages long, including notes.

At least one top BofA officer already has made use of the answering pamphlet, which was sent out under a cover letter July 28 by Mr. Langton.

G. Robert Truex Jr., executive vice president and chief lending officer for the southern division, used the booklet as a briefing paper for an appearance he made before a group of young adults sponsored by the Young Men's Christian Association.

"Some of the same litany of criticism came up at the meeting," recalled Bruce Mitchell, a BofA public relations officer in Los Angeles, "and the booklet came in very handy in making the point that one ought to be able to document his accusations beyond the mere assertion of them."

Officials of the center were not impressed with the answer. Ed Scanlon, research director of the center, and James Lowery, project director and former Business Week intern and part-time reporter, conceded that their original document was not without its flaws.

"But BofA made many of the same errors they accused us of making," asserted Mr. Scanlon. Among the failings of the BofA answer, Mr. Scanlon said, were its rhetorical treatment of the issues and, even though the full text of the center document was reported, the BofA answers ignored the context of the criticism.

Mr. Scanlon flatly disputed the opening assertion of the BofA answer that the title of the center pamphlet was based on a statement attributed to a bank agricultural economist which he denies having made. Mr. Scanlon claimed he was listening on the telephone when the economist said: "We merely make loans."

The bank stands by its economist's contention that he did not make such a remark and certainly not in the context the center reported it, implying that the bank feels no responsibility for its impact on society other than its obligation as a lender.

Mr. Scanlon said the center already was at work on another edition of its pamphlet when the BofA answer arrived. He said the center is preparing further reports on BofA and has contracted with Alfred A. Knopf, Inc., New York, to publish a book on the bank sometime next year.

Senator STEVENSON. Our next witnesses are Mr. Curtis Anderson of Sunkist and Mr. Jack Sullivan of the California Canners and Growers Co-op.

Thank you gentlemen, for joining us this afternoon. You are welcome to proceed by reading your statements or summarizing them.

Mr. ANDERSON. We decided it did not make any difference, so I will start.

STATEMENT OF CURTIS ANDERSON, MANAGER, GROWER RELATIONS DEPARTMENT, SUNKIST GROWERS, INC., SHERMAN OAKS, CALIF.

Mr. ANDERSON. I am Curtis Anderson for Sunkist Growers. I manage the growers relations department.

We at Sunkist Growers sincerely appreciate the opportunity to put into perspective the position it plays as a grower-owned cooperative in the chain of events that occur in the marketing of all varieties of citrus from California and Arizona. Sunkist is considered quite unique in that it has for its 78-year history successfully marketed approximately 70 percent of the production of citrus in California and Arizona. This is especially unique when you consider the fact that its grower-member agreements provide that they have the option to withdraw from the system once each year.

The formation of Sunkist in the 1890's was out of a dire need to provide adequate returns to an industry which was destined for oblivion unless it was able to organize and represent itself in a unified way in the marketplace. One of the unique features of Sunkist, as well as other successful cooperatives, is that best described as self-help enterprise with its only reason for existence being to serve a distinct need of its members.

To be more specific about Sunkist, we are a federated marketing cooperative representing 8,700 growers in California and Arizona. Our sales totaled $344 million this past season. Our membership is restricted to growers and associations of growers. These 8,700 grower-members have an average per-capita ownership of approximately 30 acres.

We are basically an organization of small growers who have availed themselves of the opportunity provided under the Capper-Volstead Act to join together to effect the economies of large-scale packing, shipping, and marketing. The Capper-Volstead Act has provided the framework whereby any efficient farmer or producer of agricultural commodities has the opportunity to be a viable part of the agricultural community. The Capper-Volstead Act was not designed to lift up the inefficient, poorly operating producer. Its authors were motivated by the need to help those that were willing to help and foster their own prosperity.

It might be well at this point to describe our federated nature as opposed to a centralized cooperative. At the base of the Sunkist system are the 8,700 grower-members located in the two States. The next layer is the local association or packinghouse voting unit which has membership in a local district exchange. There are approximately 100 local associations or packinghouse units who gain voting representation through 20 local district exchanges. It is at this district exchange level that the coordination of marketing between the local and Sunkist central takes place and, also, the grower representation on the central board of directors.

Each district exchange's number of directors on the board is determined by its last 3 years' average volume through the system. A formula provided for in our bylaws provides for representation on the basis of volume. In addition to each grower having an opportunity to determine who shall represent him at the local level, district exchange and Sunkist, the grower-member contributes the moneys required to capitalize the organization. Each grower contributes capital dollars in relationship to the volume he markets through the system, both fresh and processed. His capital credits are represented by physical plant facilities and inventory, such as our two products plants, one for oranges and grapefruit, and the other for lemons. Other capital items are the central headquarters, it furnishings, and the like.

Unique advantages available to the small grower through the Sunkist system are many. First of all, he takes advantage of the large-scale marketing thrust Sunkist has effected over the years of its operation. Also, the small grower can obtain equal treatment on the basis of size and grade of fruit he produces equal to a large grower. The central pooling system in our products operations, as well as export, provides for sharing the risk and marketing opportunities which would not be available to the small grower unless he has a system as provided for in Sunkist. Local associations are comprised of large as well as small growers, both of whom recognize the advantages to be gained through utilizing centralized activities.

In addition to pooling at the central level for the growers' benefit, extensive pooling programs are conducted at the local association level. Grower equity is maintained through these kinds of system and the large and small growers are rewarded alike for quality, sizes, and grades produced, but the greatest benefits derived are sharing of the risks and marketing opportunities.

Sunkist's basic responsibility is that of marketing and those functions that would be considered supportive to marketing or which would in some way enhance the value of the production of its members. Sunkist's responsibility for the growers' fruit begins when the local association or packinghouse prepares the fruit for market under the grade qualifications, container specifications, and other standardizations set forth by the board of directors. The responsibility from this point until the proceeds of sale are returned to the local association are that of the central organization.

I think it would be well at this point to describe some of the activities along this marketing chain that are for the benefit of the 8,700 grower members. Sunkist is engaged in extensive advertising and merchandising campaigns in both domestic and foreign markets for the purpose of promoting the sale of fresh fruit. These marketing activities are carried out by salaried employees located in 43 offices throughout the United States and Canada whose only function is to represent the grower in the market and actually sell his fruit. It is extremely important that the grower have market representation and of such a size that he can be heard and reckoned with as a responsible and effective force in the marketing of his crops.

This current season, which began November 1, 1971, the board of directors approved an advertising and merchandising program for all varieties totaling $8.5 million. These funds are earmarked for use in the purchase of point-of-sale material, to support a staff of 60 merchandisers in the United States and Canada, to purchase advertising space in magazines and local newspapers, and to air television commercials. The funds will also be used to develop trade incentive programs to encourage customers to handle and merchandise Sunkist citrus.

Another effective sales and merchandising program is the consumer service department which, since the 1920's, has tried to answer questions and provide the consumer with helpful information all these years. We adopted such a policy because we felt that the only way to successfully market a food product was to have satisfied customers. This current season $300,000 is budgeted for this activity, which includes free consulting service to hospitals, hotels, and large in-plant feeding establishments, institutional research, recipes, cookbooks, and food-page service to newspapers for the consumer's benefit. They also make television and public appearances on consumer matters.

It would be well to note at this point that in the face of subdivision and urbanization in traditional citrus-producing areas in California, acreage in the two States is now the largest it has been in the history of the industry. Groves have been urbanized and, at the same time, new areas have been developed in the San Joaquin Valley and desert valleys of California and Arizona. The marketing of the production of these acres is formidable in itself without considering the fantastic increase in production in Texas, Florida, and other citrus-producing areas of the world. This is why it is extremely important that citrus growers today are represented effectively in the market and that they take advantage of all the economies and efficiencies of marketing. Sunkist, for the benefit of its grower members, is engaged in a market development program in Europe and the Orient. Sunkist Growers has long had market representation in these other areas of the world and last year nearly 20 percent of the 60 million cartons fresh marketed by Sunkist were sold in foreign lands. We have engaged in market development programs sponsoring trade teams from these countries to visit the producing areas of California and Arizona and also to represent the grower in tariff negotiations to insure his fair treatment in foreign markets.

A current and good example of the grower's collective advantage in today's sophisticated market is the ability of Sunkist to obtain the liberalization of quotas on grapefruit in Japan beginning this season. Sunkist, in cooperation with Government agencies, was directly responsible for the liberalization of the quota system on lemons in 1964. Prior to this liberalization, growers were selling approximately 250,000 cartons of lemons. During this same period of time, the f.o.b. value for a 40-pound carton of lemons has increased from $3.42 in 1964 to $4.95 the season just closed. We are extremely optimistic in the case of grapefruit, and our track record on lemons gives us cause to be so. We are scheduling the sale of a thousand cars of grapefruit in Japan this year compared to only token movement in previous years. These two incidents are prime examples of the grower's effectiveness through cooperative and organized marketing.

I think it would be well at this point in departing from the text, since lemons were talked about earlier, that in 1964 5 percent of the bearing acreage in California and Arizona, 5 percent of the, at that time, 56,000 acres was nonbearing, and in 1970 28 percent of 66,000 acres is nonbearing, so the opportunity that this market presented and the price advantage has encouraged people to plant lemons.

Back in 1964 the income per acre to lemon growers was a negative $28 per acre, and it has gone up to a plus $414 in this period of time. So the growers come from a zero position to one of starting to make some money on their effort.

There are other areas where a grower's membership is important for the benefit of marketing his crop efficiently. We have represented the grower well in areas such as negotiating transportation rates, effecting the lowering of rates, as well as having a tempering effect on increased rates. We also carry out an extensive market research program as well as scientific research.

Since the early 1900's, we have engaged in the processing, making food products, of all varieties for the benefit of the grower for fruit that has not been suitable for the fresh market or excess to the fresh market. Sunkist currently sells over 1,600 processed and manufactured items for industrial use, such as flavoring, pectin, and many other products used in the manufacture and production of food products. These have been valuable grower activities and have provided a very stabilized effect on prices in years of high production or frost years.

Being a marketing cooperative and owned by its grower members represented by capital outlays on his part, Sunkist has no control over its local association members other than in areas of fruit quality, trademark utilization, and those things pertaining directly to marketing. Sunkist does not hire farm labor or in any way engage in this function. It would be well to note, however, that Sunkist's effectiveness in marketing the crops of the last 75-plus years has been the main force in providing a successful industry which certainly has provided jobs and employment in rural communities.

I have spent a lot of time talking about the benefits to the grower in the Sunkist system, but it would be well to mention the benefit to the consumer as a result of the grower's marketing efforts. The consumer benefits in that he or she can rely on the Sunkist trademark as a name with consistent quality and can buy it with confidence. Also, she benefits greatly from the efficiencies from such a system which would not be available to her if the growers attempted this gigantic task independently.

The citrus crops of the future are projected to be quite significant and the task of increasing per capita consumption is quite formidable if the efficient grower is to expect a reasonable return for his efforts. In our opinion, the years ahead are going to be very crucial for the citrus farmer and it is going to be increasingly important to him that the marketing system be efficient and that he is represented well in the marketplace and this is available through Sunkist to effectively meet organized buying with organized selling.

Senator STEVENSON. Thank you very much, Mr. Anderson. We will print your entire statement at this point in our record.

(The prepared statement of Curtis W. Anderson follows:)

TESTIMONY AT SENATE SUBCOMMITTEE ON MIGRATORY LABOR

January 13, 1972
San Francisco, California

Curtis W. Anderson
Manager
Grower Relations Department
Sunkist Growers, Inc.
14130 Riverside Drive
Sherman Oaks, California

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Since the early 1900s, we have engaged in the processing of all varieties for the benefit of the grower for fruit that has not been suitable for the fresh market or excess to the fresh market. Sunkist currently sells over 1,600 processed and manufactured items for industrial use, such as flavoring, pectin, and many other products used in the manufacture and production of food products. These have been valuable grower activities and have provided a very stabilizing effect on prices in years of high production or frost years.

Being a marketing cooperative and owned by its grower members represented by capital outlays on his part, Sunkist has no control over its local association members other than in areas of fruit quality, trademark utilization, and those things pertaining directly to marketing. Sunkist does not hire farm labor or in any way engage in this function. It would be well to note, however, that Sunkist's effectiveness in marketing the crops of the last 75 plus years has been the main force in providing a successful industry which certainly has provided jobs and employment in rural communities.

I have spent a lot of time talking about the benefits to the grower in the Sunkist system but it would be well to mention the benefit to the consumer as a result of the grower's marketing efforts. The consumer benefits in that he or she can rely on the Sunkist trademark as a name with consistent quality and can buy it with confidence. Also, she benefits greatly from the efficiencies from such a system which would not be available to her if the growers attempted this gigantic task independently.

The citrus crops of the future are projected to be quite significant and the task of increasing per-capita consumption is quite formidable if the efficient grower is to expect a reasonable return for his efforts. In our opinion, the years ahead are going to be very crucial for the citrus farmer and it is going to be increasingly important to him that the marketing system be efficient and that he is represented well in the market place and that this is available through Sunkist to effectively meet organized buying with organized selling.

Senator STEVENSON. Let's proceed, Mr. Sullivan, with your statement. Then perhaps we can come back for questions to both of you.

STATEMENT OF JACK SULLIVAN, CHAIRMAN OF THE BOARD, CALIFORNIA CANNERS AND GROWERS, SAN FRANCISCO, CALIF.

Mr. SULLIVAN. Mr. Chairman, Senator Taft:

My name is J. L. Sullivan. I am a grower from Yuba City, which is north of Sacramento, where we have mostly tree fruit.

I am a founding member and presently chairman of the board of directors of California Canners and Growers.

It is my understanding you would like to hear a little bit about our background, why we were formed, how we operate, what some of our problems are.

Fundamentally, the reason that we formed California Canners and Growers in 1958 was because, no. 1, many of the people that we were doing business with, private packers, were going out of business. I think in 1955, as an example, being a cling peach grower, growers in this State were selling to approximately 43 canners. Today there are only 11 canners active and 3 of these are cooperatives. So we got into this area before many of the terrible things happened to the cling peach and to the canning industry.

We strongly represent, I think, many, many growers who are what we call small growers. Of our 1,200 membership, over half of them deliver less than $10,000 worth of products a year; 850 of them are below $15,000 a year. We think through our organization that we are able to take care of these small and medium sized growers of California fruits and vegetables.

Cooperative marketing has reached a higher development in California than in any other State, we believe. As recently as 1970 there were over $2 billion sold through the cooperative marketing organization with approximately 85,000 members.

The history of our organization, the California Canners and Growers has been a very successful one up until 1969. At that time the HEW ban on cyclamates was issued. We suffered more harshly under this ban than any other organization. Until that time our growers, through the purchase of over seven different canners' private canneries—presently we have over nine canneries in this State and in Wisconsin—were able to retain over $30 million for our members through profits and good organization and good management. This comes about in that we paid out of profits every year 20 percent of all the profits directly to our growers, and retain 80 percent. This 80 percent our individual members pay income tax on. Those funds as late as 1969, as I say, amounted to approximately $30 million.

In the meantime we had distributed to our members $16 million, so we were a going, able concern and very proud of our past history.

In 1969, in October, we had just finished completing packing about our 7-millionth Diet Delite cyclamate product when the ban came, and 2 years later we have approximately 2,300,000 cases left. It has been a disaster as far as our organization is concerned.

Presently we have a bill in Congress seeking indemnification and we are very hopeful we will succeed.

Going on a little bit more into the cooperative idea as we have generated through California Canners and Growers, we are a marketing-oriented organization. This is one of the reasons we are not too much concerned about the future of conglomerates, because presently, as an example, both from the growing and the canning of canned fruits and vegetables we have been growing through a depression in the past 3 years. Growers and canners both have suffered. In fact, we believe that the depression is worse than anything even during the 1930's.

We are coming out of this slowly but surely. We have turned around and taken care of our surpluses. We have cut back overhead. Even though many of our organizations, including California Can, has suffered, including our members, we think the future looks very promising. We think that cooperatives are the answer as far as the small and the medium sized growers are concerned. We believe that, rather than taking on such examples as the 160-acre limitation or getting concerned with tax problems of conglomerates, getting concerned about how large they are, we are more in favor of attacking the problem constructively through legislation ideas from government as far as cooperatives are concerned, both in taxes, credit, and the long-term studies.

I think that just about does it for me.

I will answer any questions.

(The prepared statement of J. L. Sullivan follows:)

Statement

of

J. L. Sullivan

Chairman of the Board of Directors
California Canners and Growers
San Francisco, California

January 13, 1972

Mr. Chairman and members of the Subcommittee, my name is J. L. Sullivan. I am Chairman of the Board of Directors of California Canners and Growers, a grower-owned processing and marketing cooperative. This cooperative is owned by some 1200 members in California and Wisconsin. It operates nine canneries in these two states and sells a full line of canned fruits and vegetables in this country and abroad. I am myself a farmer near Yuba City, California, where I manage a diversified farming operation.

I understand that it is your desire to know why growers took the step of forming California Canners and Growers, how we operate, what our history has been, and the problems that we now face.

I belong to a number of grower-owned marketing cooperatives. I believe stronly in cooperatives as an integral and necessary part of a free enterprise system in agriculture. I believe from my own observation and participation in cooperatives that they have made a tremendous contribution to the agriculture of this State. Without them California agriculture would not have developed as fully as it has, and many small and medium-sized farmers would not have survived in agriculture.

Cooperative marketing has reached a higher stage of development in California than in any other state. We are proud of what has been done. Cooperatives have contributed stability to California agriculture. They have helped to develop markets. They have given the smaller operator an opportunity to participate in the advantages of large-scale processing and marketing operations. They have contributed competition in the marketplace that has benefited the consumer as well as the producer. They have competed effectively against the private corporate interests in agriculture and food processing. Up until October 1969, when the Department of Health, Education and Welfare began imposing its orders banning the manufacture and sale of cyclamate-sweetened food products, California Canners and Growers had a record of marketing success that would stand comparison with that of any California fruit and tomato canner.

The reasons why growers start their own cooperatives are quite obvious. They are not satisfied with the returns from selling to private buyers. They fear that eventually their markets may shrink. They believe that through vertical integration they can not only assure themselves of continuing outlets for their produce but that they can also obtain a higher return by investing in their own processing and marketing functions. They also look forward to an opportunity to grow in agriculture through the success of their cooperative, although at the time a cooperative is formed economic necessity is usually a stronger motive than eventual increased growth.

California Canners and Growers was formed in 1958 by fewer than 500 growers. The founders had gone through a long process of consultation and research. They recognized that the number of canners buying their products was gradually decreasing. Economic forces in the canning industry were encouraging mergers and concentration of power in fewer hands. At the same time, production of their crops was increasing. They saw the day when the number of potential outlets for their crops would be greatly reduced, competition for these products would be cut back, and greater production might well mean a considerable tonnage each year which would be without a regular market outlet and this would have the effect of lowering the market price. Reacting to those considerations they put up money of their own--but not much, they could only raise less than a million dollars--; they arranged for t the support of farsighted bankers who agreed that creation of another strong cooperative in the canning business would be good for California agriculture generally; and they pledged to pay a portion of their crop returns for a number of years to help build up working capital. With that they proceeded to make a down payment on two privately-owned companies. These were smaller companies that were finding the canning business highly competitive. Had they not been purchased by the cooperative, odds are that by this time they would have been picked up by larger private corporations.

As years went by, the cooperative purchased additional facilities. Later another cooperative in the olive business was merged into California Canners and Growers. In 1968/69 we constructed a vegetable cannery in Wisconsin and added some 300 Wisconsin farmers to our membership. We are today one of the major factors in selling canned fruits and vegetables in this country and the largest single exporter of canned fruits. In 10 years, California Canners and Growers became the largest grower-owned cooperative canning fruits and vegetables in the United States.

We are extremely proud of what our cooperative has been able to accomplish. It has not been easy. We have had some difficult years. But we performed well in line with our expectations at the time we founded the cooperative. We had hoped that we would be able to return our members an additional 15% over and above the value of the crops they delivered to us. In our first 10 years, we did somewhat better than that; In 1967/68 we earned $7.1 million on $107 million in sales.

In years when we were making money, we regularly withheld 80% of our members' shares of our net earnings in our revolving fund. By 1967/68 their share in this fund had reached close to $30 million as against the less than $1 million they originally put into the cooperative. We had begun revolving back to them a portion of these retains each year on a 7-year cycle. In other words, the portion of their net earnings retained in the business each year would be returned to them 7 years later. Up to 1968/69, we had distributed $16 million. At the same time we had repaid all the contributions they had made to capital in the first years of operation. As I say, this was not done easily. In two of those first 10 years conditions were such that, although we did not suffer a net loss, our earnings were so small that the Board decided it was prudent not to pay our members the full value of the crops they delivered. Over the long run, however, we were getting along very well. I doubt that any fruit and vegetable canner, private or cooperative, in California was doing any better on its operations in this State. Many were not doing as well.

It did not take long after we had begun conducting our own business before we realized that we had to seek a better marketing balance. We had a number of regional brands inherited from private companies we had purchased. But most of our business was private label. It was to our best interest to develop our brands and expand their distribution. This is difficult to do in the face of determined competition from brands already established in a market. However, we were able to take advantage of an opportunity in the low-calorie and dietary canned fruit market. In that particular field we were successful in building our DIET DELIGHT line into the nation's leading brand.

Throughout our existence we have stressed that our cooperative must be "market oriented;" in other words, dedicated to serving the demands of the consumer and the food trade. This seems simple enough but in a cooperative there is sometimes a tendency to take what the grower-member would like to produce and try to sell it, rather than assure that you take only what the consumer wants and will buy. We have strived to adapt ourselves to the market. Our plans begin with our marketing division and its projections of sales opportunities.

A grower-member of ours receives 60% of the value of his crop at the time he delivers it. He receives the remaining 40% in a series of progress payments over the following 11 months. His crops are pooled with all other crops we receive--at present they number 14--and when final returns are determined, a member shares in proceeds from the pool, not just from the crop, or crops, he himself produces. This provides diversification and insurance for the grower. While some crops in the pool may not make money in a certain year, it is unlikely that all will be losers.

We do not determine the price paid to our members for their crops. This is determined by the price paid to growers by our privately-owned competitors. We feel that it is dangerous for a cooperative to set raw product prices because it tends to set commodity against commodity. Instead, our policy is to pay the going commercial price as determined by statistical mode after thorough investigation. Thus our raw product price is competitive with that paid by our privately-owned competitors. On that basis, too, the return we are able to earn also becomes a good indicator of how we are performing--both in processing and in marketing as compared to our corporate rivals. As I have said before, up until October 1969 we were doing very well.

At that time, we and other processors were faced by the Federal ban on manufacture of cyclamate-sweetened foods. Because we were the largest seller of cyclamate-sweetened canned fruits, we were also the canner hardest hit. The final ban on sale of these products in 1970 was even more destructive to us since it came after we had taken in good faith our Government's assurance that we could continue to sell the millions of cases we had until they were gone. Had we not received this assurance, we would have followed a very different business course. As it was, the sudden revocation in 1970 of the Government's published order struck us a far greater blow than even the original order in 1969. Everything that we have accomplished in more than a decade of effort on behalf of our grower-members has been seriously jeopardized by these successive Government orders. The Administration has agreed that we are entitled to indemnification for our losses and we are now seeking this through the Congress.

Had it not been for the cyclamate orders, I firmly believe that we would have come through the recent difficulties in the canning business as well as anyone in industry. Canners have had 3 successive years of oversupplies and weak prices. Speaking personally, I believe this has been the most difficult period since the 1930's for growers of canning fruits. We now see a better balance of supply to demand but the adjustment has been costly, particularly to growers. Thousands of acres of orchard have been pulled out, either under State-administered programs or independently. I serve on the advisory board of one of our largest banks, and I can tell you that credit for growers is very tight. Many are on the ragged edge. As processors have cut back their buying in recent seasons, some growers have been unable to find a market for their fruit at any price. Many are having extreme difficulty in obtaining financing.

In such a situation, the grower-owned cooperatives are particularly valuable as stabilizers in agriculture. By and large, in California Canners and Growers we have been able to get by without drastically cutting our intake of crops. None of our members found themselves completely without a place to sell their produce. In the case of our cooperative, we have been unable to pay our growers the full value of the crops they delivered to us for the past 2 years, and we have had to stop making payments from our revolving fund. Futhermore, our working capital will be wiped out unless we receive indemnification for our cyclamate losses. However, these effects are due to the cyclamate problem and we expect them to be remedied by indemnification. Again I say that, had we not been faced with the cyclamate losses, our grower-members would have come out in far better shape than many growers who sold to privately-owned corporate canners.

In brief, I think there is no doubt that the extensive development of cooperatives in every facet of California agriculture has benefited both the producer and the consumer. It has been good for the general economy of the State. I believe that the cooperative is the bastion of free enterprise opportunity for the small and medium-sized family farmer.

As such, it deserves sympathetic handling by Government, particularly in the field of credit. Cooperatives typically find it difficult to accumulate working capital rapidly enough to exploit their opportunities in marketing. The law requires that at least 20% of our net proceeds in a given year must be distributed to our members in cash. They must pay income taxes not only on that portion but also on the 80% that we retain in our revolving fund--even though they might not receive that money for years to come. The inflationary effect in recent years has seriously decreased the value of these retains. The practical effect for a grower up in years is that of reducing the value of his private pension fund. He pays the tax on his income before he gets it and, by the time he gets it, its value is reduced by inflation. I believe that special and sympathetic attention should be given by Government to these problems of cooperatives and their members.

There has been much debate over the value of marketing orders in agriculture. The debate varies according to the purposes for which the orders are intended, the heaviest attacks coming against orders designed to give growers some control over supplies reaching the market. Speaking personally, I, myself, favor enabling legislation which will open the way for growers to adopt such orders when the need dictates such action. They should have the right to join in this type of activity on the basis of a majority vote of the growers involved. Many economic difficulties facing farmers arise because our ability to produce outruns our ability to market. Legislation should be passed making available the tools to control production when it gets out of hand.

California Canners and Growers is the largest exporter of canned fruits from this country. Among the handicaps we have faced recently in this trade are, first, a very high ocean freight rate between the Pacific Coast and our principal European markets and, secondly, the dock strikes which shut off movement to overseas markets just at the time when our exports are usually at their seasonal high.

We are attempting to do something about the freight rate by joining with other exporters in a new organization. We hope that this organization will mobilize such volume that we shall be able to make lower cost arrangements than those established by lines that have traditionally carried our goods. If not, we shall continue to seek our Government's help in reducing or offsetting the rates set by foreign-owned shipping lines that now dominate the trade with Europe.

In the export field we also face stern competition from subsidized exports of canned fruit from Australia as well as subsidized imports of canned tomato products from the Mediterranean area. We need our Government's vigorous help in meeting these threats to our economy and to the nation's balance of payments.

Successive labor stoppages in the trucking, rail and shipping industries within the past 18 months have been devastating to our marketing efforts. Not just to us, but to all of agriculture. A new look must be taken at our methods of collective bargaining, seeking some way of avoiding these stoppages that bear so heavily on the general economy and on those not directly involved in the disputes in question.

In closing, may I say that cooperatives are an essential part of American private enterprise. They operate under slightly different legal status than private corporations but this has drawbacks as well as advantages. And we do not seek advantage, only the opportunity to compete on even terms. Given equal opportunity, we do not fear competition of any kind, whether from conglomerates or anyone else.

We are democratically governed by our own members who elect their directors by secret ballot. The Board and the management are directly responsive to our members.

Cooperatives are a natural response in these times to the difficulties that growers face. It appears to me that the Congress interested in preserving the social and economic advantages of the family farm should be deeply concerned with assuring that grower-owned cooperatives have the opportunity to make their way.

Thank you for inviting me to present my views.

Senator STEVENSON. You mentioned credit, Mr. Sullivan. We have heard a good deal about availability of credit for farmers. Is it difficult for your members to obtain adequate credit for your canning operation?

Mr. SULLIVAN. We have presently, I serve on two different bank boards, and our locality up north of Sacramento, I am on the advisory board of the Bank of America and vice-chairman of the Yuba City Federal Land Bank. I am also a member of the advisory committee of the Berkeley Bank of Cooperatives, so I have somewhat of a background in this area.

As far as California Canners and Growers are concerned, I would say we would not be in existence today if it were not for the large banks in this State. We started making a search to organize and to design and enable a group of growers to get together way back in 1956, 1957, and 1958. We talked to the banks in this State and they thought there was a need for a good cooperative, a good cooperative that would, say, balance prices and help the growers. So I think what I am talking about, sir, at this time, is we are running into new problems all the time, both as growers and as canners. I think that we have the tools in the present commercial banks and in the Government banks such as PCA, Federal Land Banks, and cooperatives, to go a step farther as far as financing is concerned. I think there is a great, great future here as far as studies should be made in this area.

Senator STEVENSON. Let me ask you a question about tax policy. I address this question to both of you. It has been suggested repeatedly in these hearings that one of the difficulties growers face is competition from people in farming for tax-loss purposes. I also understood that citrus growers are treated differently from walnut growers, and that costs of production of citrus cannot be offset against income in the same way that the costs of production of walnuts can. Are citrus growers in better shape because they aren't threatened by syndicate farming and by corporate farming for tax-loss purposes?

Mr. ANDERSON. There is syndicate or conglomerate farming of citrus in California as well as any other commodity.

Senator STEVENSON. My impression was that syndicates were moving out of citrus now and into other forms of agricultural products.

Mr. ANDERSON. What it amounts to is that the first 5 years of production the grower has to capitalize and not expense. After that period of time, it can be deducted or expensed on his income tax. What happened when that was put into effect on January 1, 1970, was that two things occurred—low income the previous year deterred planting, as well as the Tax Reform Act, so there were very few plantings.

What happened was there was an enhancement in the value of existing productive growers. But there is still a lot of plantings that are preferred last spring in some areas and again in the next spring, both in grapefruit and in lemons, because they look like a promising variety. So it had some effect but there was some economics involved, too. It is hard to say which was the most.

Mr. SULLIVAN. In this area, sir, I think that my point is, as far as tax laws or changes are concerned, several years ago before the

Federal law of 1966, I think, was passed, we in California had a cooperative tax law that was based on the following: That we had to pay out to the cooperative 20 percent each year to the grower—profits I am talking about. There would be no tax on the balance for a period of 6 years. During this period of 6 years, these retainings would have to be revolved out, otherwise they would be taxed as far as the parent corporation was concerned.

The Federal law, as you know, is 20 percent, 80 percent retained, but the individual member bases taxes on, and since that time California has changed over to follow this.

But I think the reason this law exists, this is a personal opinion, is there are so many different types of cooperatives in this country, there are marketing cooperatives, there are purchasing cooperatives, there are insurance, different types, and they each have a different tax problem as far as the Government is concerned.

I think the present law that we have, the Federal law, tries to encompass too many of these cooperatives into one law. Some of them suffer, as the marketing cooperatives, I think we do now.

Your question about citrus and walnuts, so far anyway, has not applied to California Canners and Growers because we are in the peach, pear, apricots, and tomatoes.

Senator STEVENSON. How do you in this cooperative canning venture market your product?

Mr. SULLIVAN. If I understand the question, we are a marketing cooperative. We have sales of around a hundred to a——

Senator STEVENSON. To whom do you sell?

Mr. SULLIVAN. We are mostly what are called private-label packers. We sell to Safeway, A. & P., and Krogers. We are the largest private-label packer in the land. We also are the largest fruit exporter. We have private labels.

Senator STEVENSON. You said you were not concerned about conglomerates in agriculture, if I understood you.

Mr. SULLIVAN. At the present time I believe that we are simply in a competitive position. So far we have been competing against the Del Monte's, the Hunt's, the Libby's, the Stokeley's, and we have come out very well, so I think these conglomerates are going to take a long look, when they attack us, they are going to be getting into the same business with the Del Monte's and Libby's and it is quite a business right now, a very competitive business.

Senator STEVENSON. You are not concerned about Tenneco or its retail establishments supplying its own requirements to the exclusion of your business?

Mr. SULLIVAN. Maybe I am making an error in discussing Tenneco because presently they are not growing the same type of products that we are. In talking about the future, I do not believe—I will put it this way—I think that the products they are in presently and are developing are products that have had a marketing problem, and maybe there was something that could be done through conglomerates or through vertical integration. It is not as advanced as it is in the fruit and vegetable industry.

Senator STEVENSON. Membership in Sunkist, Mr. Anderson, is open to all citrus growers in Arizona and California?

Mr. ANDERSON. Yes.

Senator STEVENSON. I don't know whether you heard the previous witnesses, but it seems that Sunkist had been an extraordinarily successful venture from what I have heard, and has been of great help to the growers in Arizona and California and, I dare say, to the consumers, too. It has been so successful, though, that growers in other parts of the country are suffering.

I mentioned some of the groves I saw in Texas where fruit was rotting on the trees. What is the answer, increased individual consumption at home and in the world, or are those growers in other States that haven't been as enterprising as your growers just going out of business?

Mr. ANDERSON. Once you become a member of a cooperative marketing organization, you give up some independence and in some areas growers have been reluctant to do so. We have spoken to the people in Texas often. They have come to visit us and tried to learn what we have done and see if they couldn't do the same thing. In fact, the man consulting with them now was once a former president of Sunkist, to give some help to them in getting out of the hole they are in, which isn't easy. However, they have not had the willingness on the part of the producers themselves to join together and give up some of that independence: That is what the price is going to be and very strict trademark regulations, strict container laws within the corporation, and all these things must be had if you are going to have kind of a united marketing firm.

Also bear in mind, too, that Florida is the largest producer of citrus in the world. Florida has a million acres of citrus and most of it is raised for that purpose, for canning and for frozen orange juice and that is a formidable competitor to fresh. Econocially a lot of homes can't afford fresh oranges compared to buying canned to feed to their children.

Senator STEVENSON. Are not all Sunkist oranges sold for processing?

Mr. ANDERSON. Yes, we process all varieties of citrus in our own plants and marketed to some extent under our own label.

Senator STEVENSON. Including canning and freezing?

Mr. ANDERSON. Yes; and we mainly are involved in manufacturing products for other fabricators. We sell tank juice or frozen barrels of juice. We do blending and do a lot of private label work for chain stores.

Senator STEVENSON. Senator Taft.

Senator TAFT. Thank you, Mr. Chairman.

Mr. Anderson, I take it that you have now no exclusive bargaining rights with these individuals who are members, is that right?

Mr. ANDERSON. No.

Senator TAFT. What do they contract to sell their entire output to you?

Mr. ANDERSON. They sign a marketing agreement, grower marketing agreement, with us and they agree to deliver all of their production to us and sell it all and accept complete responsibility.

Senator TAFT. Each year they have a choice as to whether to go ahead or not to go ahead?

Mr. ANDERSON. That's right. It is usually a two-week period each year in September when they can choose to leave. It is a perpetual contract with a withdrawal provision for 2 weeks every year.

Senator **Taft**. If somebody pulls out, they can then go out and sell to anybody else at any time?

Mr. **Anderson**. Yes; I think often they say, we sell to Sunkist, and that is not an accurate term.

Senator **Taft**. Mr. Sullivan, you mentioned you are on a number of bank boards. Do you feel there is a conflict of interest between serving on these boards and performing duties you have with the canners?

Mr. **Sullivan**. No. The boards that I serve on are grower-oriented boards. I am talking about, if I understand what you are talking about a conflict, a small bank, both of them are in Yuba City, and we do not in California Canners and Growers borrow any moneys from these banks.

Senator **Taft**. But you are on an advisory committee to other banks?

Mr. **Sullivan**. I am on an advisory committee of the Bank at Marysville, which is the Bank of America. We borrow money from that office for California Canners and Growers. The Bank of America in Marysville does not have any funds that go to California Canners and Growers; most of their loans are to growers.

The Federal Land Bank is in mortgages, deals in mortgage loans. Funds are available for long-term real estate loans to growers only.

Senator **Taft**. Thank you. Thank you, Mr. Chairman.

Senator **Stevenson**. Is mechanization coming to the citrus growers?

Mr. **Anderson**. Not very fest. They are still picked by hand and each orange and lemon, all citrus, is clipped by hand. We have developed a quicker clipper that provides the picker can work more efficiently. All oranges are graded by hand in the packinghouse and packed by hand. Lemons are packed by just dumping them in a box or singulated in a volume-fill arrangement.

Things that have changed in the packinghouse are more modern washing equipment and more modern air conditioning and things of that nature, fork lift trucks, but actually those things you do with the fruit are still done so much by hand. In fact, there is some harvesting work that is abandoned because it is unsuccessful.

Senator **Stevenson**. You don't foresee any drastic changes in the near future?

Mr. **Anderson**. No. We are trying some things but they look very dim.

Senator **Stevenson**. Is that true in the canning industry also, Mr. Sullivan?

Mr. **Sullivan**. You were discussing the tomato industry with the last two gentlemen that were here and before that today there is no question about the mechanization in tomatoes, that around 90 percent of the crop is picked by machines. This started, I would say, about 6 years ago, and I would say there were more people employed, agricultural workers, in the tomato industry than in any other fruit or vegetable industry in the state. There has been a tremendous change there in replacement of labor. At that time there were, I think, approximately 100,000 Mexican nationals who came in annually to help harvest the tomato crop, before this program was terminated. But also there were many, many local Californians working in the tomato crop who were displaced. Some of these figures and some of these problems still exist.

Senator STEVENSON. Mr. Anderson, does the vote of the growers who are on the Sunkist board depend on the volume of their production? Is that an oversimplification?

Mr. ANDERSON. Each grower has an opportunity to elect his representative. The volume factor comes involved when the 20 district exchanges elect their members to the central board, the Sunkist board. There is where the volume comes into play. The larger the volume in the district exchange——

Senator STEVENSON. In the district exchange?

Mr. ANDERSON. Yes. Then there is more representation at the local level.

Senator STEVENSON. Within the district exchange unit each grower, regardless of volume, has the same vote?

Mr. ANDERSON. That's right; that's right.

Senator STEVENSON. It sounds like a very democratic system. I was wondering whether the effect was to give the large growers the control of the board and therefore control of prices and the power which could be exercised to the disadvantage of the smallest farmers?

Mr. ANDERSON. As an example, in one of our local associations, one of the members is Goodyear Farms. They are a farmer in Arizona as well as making tires. They have one vote along with another man on the board that I know has 10 acres, so they have the same opportunity.

Mr. SULLIVAN. Could I make one more statement, please?

Senator STEVENSON. By all means.

Mr. SULLIVAN. We in the fruit and vegetable industry do not participate in any subsidized programs. We receive no subsidies and we do not want to receive any. But during the past several years, because of outside influence, we have lost approximately 50 percent of our export fruits to Western Europe and to the United Kingdom and we have lost this because of subsidies or grower or canner subsidies by the Australian Government and the South African Government. We in the California fruit and vegetable industry will compete with anybody in the world as far as our products are concerned, as far as quality and cost, but we cannot compete with Governments. We are not that big or we are not that efficient. So I think that we are going to be back in Washington within the next several months asking our Government for help.

Senator STEVENSON. What kind of help do you need?

Mr. SULLIVAN. I think we had an understanding with the Australian Government 2 years ago to stop the subsidies; they call it an MDA fund that they developed and they said they would stop it. Otherwise we had two separate meetings with them and our Government said that they were going to do something about it, either subsidizing our freight rates, shipping rates, to the United Kingdom or to Western Europe, unless they ceased and desisted, which they did, but now they have started again.

We have the same problem with shipping in South Africa. They have some type of Government help—we can't even find that out, but we do know their rates are something like about 80 percent of what our rates are per mile. We have understandings and then we lose out. As a result we are losing a tremendous amount of our business. What happens is that our growers either have to throw food on the ground or we have to eat it.

Senator Taft. Are you using Export-Import Bank's financing or guarantee programs?

Mr. Sullivan. No.

Senator Taft. Or insurance programs?

Mr. Sullivan. No.

Senator Stevenson. You do receive some help in the form of marketing orders which control importation?

Mr. Sullivan. I am an advocate of marketing orders. I think they are a must as far as cooperatives are concerned, both as far as research, merchandising, advertising, and crop controls, but there are no moneys from any type of Government subsidies. These are programs that growers and canners use and put in, but there is no Government pay of any type.

Senator Stevenson. You say that there is no fruit and vegetable crop subsidy? It could be argued that there are other, more indirect subsidies, such as irrigation programs. We have been hearing a lot about water today. There certainly are some benefits derived by the growers and the cooperatives from Government policies, including benefits determined through marketing orders.

Mr. Sullivan. These same things existed in Australia and South Africa but on top of that they are able to generate more funds from the Government.

Senator Stevenson. I thank you goth very much for joining us. Your remarks have been very helpful to us.

Our next witnesses are Mr. Manuel Santana, Mr. Alfred Navarro, Mr. David Kirkpatrick, Mr. Tereso Morales, and Mr. Juan Godines representing the Cooperative Campesina.

Gentlemen, do you have any prepared statements you would like to read, or would you prefer just introducing them into the record? If it is possible, it would be preferable to summarize any such statements because we are running so late. If you will do that, we will enter your full statement into the record.

STATEMENT OF DAVID H. KIRKPATRICK, ON BEHALF OF CENTRAL COAST COUNTIES DEVELOPMENT CORP., ACCOMPANIED BY MANUEL SANTANA, ALFRED NAVARRO, TERESO MORALES, AND JUAN GODINES

Mr. Kirkpatrick. My name is David Kirkpatrick. I am a board member of Central Coast Counties Development Corp. and general counsel.

I have a prepared statement which I will submit and briefly summarize it.

I have with me at the table, this is Mr. Tereso Morales, president of Cooperative Campesina, and I think he would like to present some strawberries to you.

Senator Stevenson. I have already sampled them, they taste like fruit.

Mr. MORALES. This is a sample of some of the hard work we have done through our cop-op, so I am giving this as a sample in the name of the co-op.

Senator STEVENSON. Thank you very much. I will have to figure out how to get those on the airplane.

Mr. KIRKPATRICK. Mr. Juan Godines is also a member of the Cooperative Campesina, and Manuel Santana and Alfred Navarro.

If I could briefly summarize my statement.

Central Coast Counties Development Corp. is a nonprofit corporation which was established to provide technical assistance to low income minority groups who were interested in getting into some form of business enterprise. The group was actually organized in about 1969 and it took almost a year to get the first money to acquire a staff and get going. We got our first grant in 1970 and at that time took on as the single most important project putting together a strawberry co-operative of which Co-operativa Campesina is now the end result. Tereso was one of the group of men who was in an OEO title III(b) migrant education program who were interested in developing this type of cooperative. We worked with them; we put together our package and went around trying to get someone to put money into this sort of a cooperative. At the Farm Home Administration we got turned down. We went down to the Bank of Cooperatives; we went to a number of private banks. Initially there just wasn't anyone interested so it was a real struggle getting this off the ground. We were sort of discouraged but fortunately the farmworkers themselves were not.

Senator STEVENSON. Let me interrupt if I may. The project was put together originally by Central Coast Counties Development Corp. Where does CCCDC get its funding?

Mr. KIRKPATRICK. It receives funding from the Economic Development Administration, technical assistance funds. In addition, we finally have received a grant to set up the Co-operativa Campesina, we received a grant of $100,000 for a loan fund. That $100,000 was in turn loaned to the cooperative, but it will eventually be paid back to Central Coast.

Senator STEVENSON. The Development Corp. received a grant which it in turn then loaned to the cooperative?

Mr. KIRKPATRICK. That is correct.

Senator STEVENSON. Where did it receive that grant?

Mr. KIRKPATRICK. From the Office of Economic Opportunity.

After our first efforts to raise the funds which met with no success, a number of the workers got together and with their own money set themselves up in farming zucchini. They tied down the land themselves, they did the work themselves obviously, and very successfully marketed a small crop of zucchini. This at least showed they were perfectly competent to put together their own farming operation and with minimal assistance from the outside market a crop.

With that experience plus more detailed analysis of the strawberry market, what exactly we were trying to do, we then went back to these various funding agencies and it was at that stage that we were able to put together a package with bank financing and this initial $100,000 from the OEO to establish a line of credit of approximately $300,000 which the cooperative needed to get off the ground.

Senator **Stevenson**. Could you enumerate those agencies that you first tried unsuccessfully to get the funding from?

Mr. **Kirkpatrick**. Well, the one at first was the Farm Home Administration, and they had at that time an economic opportunity loan program for cooperatives. It seemed to be the one program tailored to meet the needs of this group. We really didn't get anywhere with them.

Senator **Stevenson**. You said at that time it had such a program. Doesn't it at this time have such a program?

Mr. **Kirkpatrick**. Well, I have heard rumors that the Bureau of the Budget is going to close out the program if title VII is not passed transferring that fund to OEO. I don't really know the current status of that program.

In any case, the Bank of Cooperatives would be another agency. We went to a number of private banks, we went to OEO. Are there any others? A number of other agencies were very helpful in getting us as far as we have gone.

One of the things I would like to convey to you is that the only reason we have been able to, the cooperative has been able to get as far as it has gone is because a whole variety of different programs have been put together to make this possible. The Department of Labor has an operation mainstream program. This provides a salary for people during an on-the-job training period, after which the employer would take them on at full salary. This would give the employers inducement to get people who might not initially have the skills to be employed in that job, to get them into the operation. Central coast counties was fortunate in getting such a grant to administer that type of program and our Department of Labor contact, Andy Fernandez, allowed us with full clearance to put some of the members of the co-op on that operation mainstream program during the period of time that co-op was not generating any funds.

One of the problems in agriculture is that there is a very long start-up period. There are many months from the time that you start working the ground until you see any cash, and in getting this sort of a program started you are expected to work full time without any cash. You have to find some way to get this program off the ground. Once it is on an on-going basis, then out of savings, out of borrowed capacity of the cooperative, you can carry these people if you so please. There is a real problem in getting this type of operation off the ground and the Department of Labor money was very useful.

In addition, there are some people here in the audience from Trabajadores Adelante, which is the OEO migrant program and they extended I think on one occasion a loan of $5,000 and on another occasion a loan of $10,000 that was very helpful to the group. There have been a great number of these programs that have all contributed in their way, and one of the things that we would like to see if the co-op proves to be successful is that someone designs the resources so you only have to go to one agency to put together this sort of thing. It is a little hard to expect too many groups to have the phenomenal good luck and perseverance that this group has had in being able to string together all these different programs.

We don't really see the co-op as being at the moment a proven solution to a lot of problems, and we get sort of nervous when people look at us in that fashion. The co-op has raised several crops of zucchini, it has cultivated a crop of cabbage which is almost ready to pick, it has made a first picking of strawberries this spring. We see no reason why the co-op won't be a success but just to be realistic we have to recognize that we will have to wait at least another year to see the full cycle, to see how successful it is going to be, and we don't really know yet whether or not this can be a success in other crops in other areas.

Senator **Stevenson**. How many members of the cooperative are there?

Mr. **Kirkpatrick**. Thirty-one.

Senator **Stevenson**. Thirty-one families?

Mr. **Morales**. Yes.

Senator **Stevenson**. And how many acres does the cooperative own or lease?

Mr. **Morales**. I don't understand that word.

Mr. **Kirkpatrick**. How many acres does it own?

Mr. **Morales**. 160.

Senator **Taft**. How are you marketing your crops?

Mr. **Morales**. We are going to get a salesman for the strawberries. We were selling the squash through a broker, a local broker.

Senator **Taft**. Local brokers?

Mr. **Morales**. We try to get our salesman for the strawberries.

Mr. **Kirkpatrick**. I think the long-term approach that we are trying for is to eventually have the cooperative be its own marketing agent, to get eventually to a sufficient size so it is independent of any other marketing agency, but at the moment this is not to full scale yet, we will be marketing through a broker.

The cooperative, I might mention, is substantially different than the other cooperatives who testified here today, partially just because of scale, but I would say the main difference would be that we see the cooperative as being made up of people who are operating just on a family scale operation. There isn't going to be anyone who is going to have a disproportionate share of the crop that is going to be marketed. The co-op is not going to be economically tied disproportionately to any one group and we would hope that in practice it will be fully democratic. I don't have experience with these other cooperatives, but from the outside they certainly seem more like a normal business operation and we hope not to see that happening with the cooperative.

Senator **Stevenson**. Who are the members of the cooperative? Were any of them landowners before? Were they farmworkers or migrants?

Mr. **Morales**. They are all farmworkers and they didn't own any land.

Senator **Stevenson**. Was $250,000 the total figure you have acquired in grants and loans?

Mr. **Morales**. Two hundred fifty thousand dollars.

Senator **Stevenson**. In addition to the $250,000 acquired for the purchase of land and equipment, did the members contribute any equity of their own, any cash? Did they make an investment out of their own pockets?

Mr. **Morales**. As a start for the co-op, that is when we have to come up with some money. Like Dave said before, it was pretty hard for us to try to borrow money, so we had to come in with our own money to start a co-op and this is how this got started, by our own money.

Senator **Stevenson**. In addition to the $250,000 acquired in loans, how much was raised by the members from their own pockets from whatever credit they had as individuals?

Mr. **Morales**. Right now they are coming in with some money for the land, and we are paying out $50 as membership to the co-op.

Senator **Stevenson**. Can you describe so far your successes, how much money you are making on this $250,000 investment?

Mr. **Morales**. We are hoping to get, I think it is going to be somewhere around a quarter of a million dollars total.

Senator **Stevenson**. Gross?

Mr. **Morales**. Yes.

Senator **Stevenson**. For next year? Projecting gross sales next year of about $250,000, this year I should say, 1972?

Mr. **Morales**. We have this, a quarter of a million dollars.

Senator **Stevenson**. What do you expect to get from that?

Mr. **Kirkpatrick**. That is the net figure rather than the gross figure.

Senator **Stevenson**. You expect to get in 1972 $250,000. That is before loan repayments, I assume?

Mr. **Navarro**. Let me just give a brief explanation. Tereso is saying net, which means farm income to the families, that is a very conservative figure. Actually sales on the 80 acres of production, on a conservative basis, is in the neighborhood of $100,000 to $700,000 per year, this is 80 acres of production. About half of that is cost, so Tereso says a quarter of a million, that is divided up amongst the 31 or so families, which is again a conservative figure.

Senator **Stevenson**. That is on 80 acres of 160?

Mr. **Navarro**. Correct.

Senator **Stevenson**. What happens to the other 80 acres?

Mr. **Navarro**. The other acres are in various other crops which we mentioned before, the cabbage, there is some vacant land that will be rotated, other crops are being analyzed in terms of the profitability factor towards this kind of structure.

Senator **Stevenson**. Aren't you in 1972 going to make money from the sale of cabbages and other vegetables grown on those 80 acres?

Mr. **Navarro**. Right. That is other income that will be expected to the families.

Senator **Stevenson**. That $250,000 net sounds like a very conservative figure.

Mr. **Navarro**. It is. It is a good 8 to 10 to 12 thousand dollars. Again, I am speaking of large variable mainly because it can vary that much per family income. Now, we have evaluated this interms of hours, and the membership themselves know that this is not considerably more than they are making if they have a good year, if they work long hours during the year. As you know, the wages are low and the hours accumulate. In this particular case, especially at the start, the income is not the only reason for the cooperative. The cooperative is trying to establish itself, it is trying to establish its equity. Tereso Morales mentioned that they started off with very little money. This is the problem that cooperatives are having, especially in light of trying to help out farm workers into forming cooperatives with no investment to be made, it has to come from somewhere. This is why we went to the various governmental agencies, and actually most of them didn't believe the concept, they didn't believe that a farm worker could be a farmer, including initially OEO, till we did some further analysis and then I think convinced them. I think now they are satisfied that it can take place.

The farming community didn't believe they would ever plant the crop. Once they planted it they didn't believe it would ever come up, and once it came up, now they are saying it will never stay together. I think the reason this co-op does exist is merely because of the hard work of, first of all, the board of directors of these nonprofit corporations, as David Kirkpatrick mentioned, including the C.C.C.D.C., and also the hard work and perseverance of the farmworkers that originally started the cooperative and the total membership now. I say membership because they are, in a sense, categorized as members now instead of farm workers.

Senator STEVENSON. Mr. Kirkpatrick, you said you had misgivings about people looking at the Co-operativa Campesina as an example of what can be done with hard work and a chance, and some credit. Why? It has been very successful so far, hasn't it? If it is being done in this case, why can't it be done in many cases?

Mr. KIRKPATRICK. Well, we are very happy to have people look at it. We just don't want them to expect too much, more than the co-op can really claim to prove.

Let Manuel say something along these lines.

Mr. SANTANA. To start off a co-op is a very, very difficult problem to begin with. In order for it to succeed it has to have a sophistication of modern agriculture, modern management, and control factors. In addition to that, the people that we serve also need a lot of training in management and control and organization. We believe that one of the reasons why the poverty programs have failed so badly is because they have never had a sophisticated staff to put together sophisticated packages that have a chance of success. To start another co-op, to get as far as they have done with the hard work will require a tremendous amount again of a highly trained staff, to put aside their ideology and start working to running a business, and it is extremely difficult to do that. This is one of the reasons why we feel that rural economic development still is not funded by the Government—to do this kind of planning and implement and to pay for that sophisticated staff. Again we believe this is one of the answers to rural economic development, especially with the migrant worker. We believe that through a co-op we can begin to stop some of the migration; we can begin to have more stable communities; but first you have to start off with an economic base, and this economic base could be done through this cooperative effort.

The co-op needs also have to be designed very, very carefully to to meet the needs expressed by the people themselves. This takes a tremendous amount of sensitivity and it takes again very sophisticated people who can convert traditional management techniques to the need and the profile of those whom it is supposed to serve. Again we have a fear that co-ops, just co-ops per se, are beginning to be rather a fad, and we feel that co-ops can provide the basic economic development, especially for migrant farmworkers.

But more than that, it also has to provide a completely new way of looking at the rural communities. I think we are beginning to separate them from the urban communities in this sense. What is happening in the cities right now is a tremendous amount of segregation in the cities, and a tremendous amount of money that the Government is providing to solve these problems is being constantly diffused by the immigration of farmworkers who can no longer make enough money to live in the rural communities. The housing in rural communities is disastrous. What little housing programs we are able to get through the Federal Government are so tied up and so cheap in a sense that they provide more problems than they really prevent. Most of the housing that we have seen that has been accepted in the rural communities are not designed for rural families. We are still talking about townhouses. Well, you put in apartments or townhouses for rural workers with eight children apiece and you are going to have a social disaster. When we talked to the FHA people about their requirements, they don't provide yards around a house where you can isolate those children if you have to, where they can have a small playground. They are trying to pack 10- or 15-member households in 900 square feet with five bedrooms. Who is kidding who? It just doesn't work out.

Essentially we feel that what we have to do is look at the rural economic development as a total thing which includes dispersion of the urban population back into the rural communities. In order to do that, the rural community must generate enough income, it must provide for social development and it also must provide for cultural development which makes rural communities again very attractive to the small farms.

Again I feel the Government must provide some seed money for this kind of planning and perhaps testing out models. We have a model cities program right now which I think is trying somehow or other to humanize the city in view of the people. The people have a lot of participation in these programs, and development of the communities. I think we have to spend as much money in our rural model communities as we are in the cities. I think this is one of the answers. A lot of planning, a lot of implementation, and a lot of sensitivity as to the nature of the people we are trying to serve. Central Coast Counties Development Corp. feels we are forced to go into the field of planning and rural economic development is one of the fields on which we plan to concentrate. We look at the co-op as a first phase to provide an economic base for further developments. Hopefully we will be able to get more legislation and get more money to provide those test models for rural economic development.

Mr. KIRKPATRICK. If I can add just a little bit more in response to the question.

You have been talking in terms of $250,000 as being what we had to get together to get the cooperative off the ground. In fact, I have gone into it in somewhat more detail in the prepared statement. There is a tremendous amount of technical assistance that lay behind it, too, which costs money. Not only that, we found we had to gather the basic materials in most of the areas that we were concerned about.

There haven't been a lot of people thinking about what sort of crops would lend themselves to this type of development. There haven't been a lot of people thinking about all of the real problem areas that we have had to deal with. We had to ferret this information out from scratch, and we had trouble finding people with past experience in these areas which makes the whole process slower, and we have had to provide a training staff. We have had to prepare a curriculum and this sort of thing for the families which involves a considerable cost in addition to the money we have mentioned. So we would be concerned that people would just, you know, lunge into sort of a cooperative movement without realizing all of the elements that are involved.

You have to have the necessary credit, the necessary training, and the necessary technical assistance. Then if our venture proves out we really would like to furnish it to you, but we feel it is a little early to point to it as being a monumental success.

Senator STEVENSON. A considerable amount of Federal money goes to Land-Grant Colleges. Aren't they thinking about these things?

Mr. KIRKPATRICK. They should be; they should be more. U. C. Davis has come and given one talk to the members of the co-op, and I would like to press them more in the future. Most of the agriculture extension's publications are only in English and not in Spanish so even what they have done isn't really available to the membership. There are many areas of improvement. I don't think anyone has pushed them from our respect that much in the past but it is not to say we won't in the future.

Alfred has something to say.

Mr. NAVARRO. I only wanted to say that in terms of that question, and I think sustaining what David is trying to say, cooperative is merely a technical name in a sense for a structure and what we are really talking about is really community development and community development for the farmworker. The farmworker has to be trained, he has to be given the opportunity and he has to be given the proper guidance and leadership to utilize whatever resources are there.

Secondly, more effort has to be made on the part of the Government, the private sector, and the educational sector especially.

You mentioned University of California at Davis. University of California at Davis is too narrow in their concept of farming, we feel, as I think was previously mentioned in terms of mechanism. Mechanism is done for profit's sake, not for people's sake. Education and curriculum, et cetera, are done for the sake of the established mode of operation. Programs such as the OEO need to be more sensitive or actually more developed toward actually helping the farmworker.

I think the reason the corporation began to begin with, and initiated its work, was to get more direct benefits to the farmworker. It is obvious that most programs filter down very few direct benefits, if any, and if any service is performed, and our attempt has been merely to direct as much of that directly to the farmworker as possible, assist the farmworkers in meeting their objective, and they operate the cooperative, they hire the management and they fire the management with their own financing. This is their objective and this is what we have tried to do, but there is a tremendous amount of need, not just for everybody I am going to say, just in general, there is a tremendous amount of need. If you are really going to stop and solve the problems we are going to have to start concentrating and start being a little more realistic that the farmworker is the person that is going to have to start doing it, in a sense, for himself, the one that is going to have to receive the benefits.

Again, cooperatives can only help a small percentage of the farmworkers. Unionization helps out, or can, and will, and is helping a majority of the farmworkers. Economics is not such that every farmer can be a co-op member, in my opinion. There is still more work to be done, more models to be tested and more community development. When I say models, I don't use the word lightly. I mean actual things that can be used, that the farmworkers themselves can turn around and pick up and use, and I think once this is done and the farmworker has a base, a political, social, and economic base, then he can start solving his own problems, take on his own leadership, he doesn't need the OEO, et cetera.

Senator STEVENSON. Does the cooperative hire any farm labor?

Mr. MORALES. No. Pardon me, yes, a little bit, because the first year we were harvesting the zucchini squash, we were getting ready to get the land ready for the strawberries also, so we were in a position to hire one or two persons to help out on the picking of zucchini. But the plan of the co-op is not to hire people, only on the topic of strawberries. Instead of losing them we prefer to pick them so that is when we come to the position to hire a person for a week or two. Other than that, it is all planned to be done by the family.

Senator STEVENSON. Senator Taft, do you have any questions?

Senator TAFT. I have no questions. This was very impressive testimony.

Senator STEVENSON. It is one of the brightest spots in these 3 long days of hearings. What you say sounds very much to me as if you should be given not a grant, but credit, the opportunity to borrow, and the technical assistance. An overall strategy for rural America could be developing, and Co-operativa Campesina could become a model. Your experience might be repeated all across rural America. Unfortunately, your efforts are the only such experience that I know of in rural America.

Thank you very much, gentlemen.

Mr. KIRKPATRICK. Thank you.

(The prepared statement of Mr. Kirkpatrick follows:)

PREPARED STATEMENT OF DAVID H. KIRKPATRICK, ON BEHALF OF CENTRAL COAST COUNTIES DEVELOPMENT CORP., CALIFORNIA

I am here as a board member and counsel for Central Coast Counties Development Corporation. Alfred Navarro, our executive director, appeared, as you may recall, at your hearings in Washington.

Our organization provides technical assistance to low income people who are interested in establishing themselves in some form of business enterprise. Our single best known project has been helping establish Co-operativa Campesina, a cooperative made up of former farm workers which is now raising and preparing to market strawberries in the Watsonville area. The role of Central Coast Counties has been putting together a proposal to secure initial funding for the cooperative and providing technical assistance and training on a continuing basis to the cooperative to insure its success.

We have devoted a substantial portion of the resources of our organization to this one project for a number of reasons. First of all, we believe there are areas in agriculture in which the small farmer, so long as he is organized in the proper fashion, does have a chance to succeed. You have heard in the past and over the last few days testimony about the plight of the small farmer. One conclusion might be that the conglomerates will inevitably displace the sort of small to medium scale farming with which we are concerned. We would not agree, although we have to admit we have yet to fully test our ideas. Marketing of agricultural produce does seem to require large scale enterprise. The actual growing operation, however, we have found is no more economical on a large scale than on the scale of the family operation, at least in the raising of strawberries and several other row crops. We would even go so far as to say that the farm workers which we have assisted in the first few crops they have grown have matched the highest productivity rates in the growing operation of any of the neighboring farms with comparable or lower cost figures.

We feel that farm workers with the proper assistance have a good chance to succeed as entrepreneurs in agriculture. Despite the increase in automation much of agriculture is still labor intensive. The type of labor involved is often skilled, contrary to popular belief. Some strawberry growers are having difficulties because they are unable to find an adequate supply of skilled pickers, even where there is a surplus of agricultural labor. Those willing to put in long hours utilizing their skills as strawberry farmers under the Co-operativa Campesina model should be able to substantially increase their family income, find year-round work in a single community, and thereby avoid some of the consequences of the migrant life-style which this Committee has documented in detail.

Central Coast Counties' strategy for taking advantages of the efficiency of the family scale farming operation and the large scale marketing operation is to link the farm worker families who each have a plot large enough to support their family into a cooperative which will then bargain on behalf of all the members in marketing their crop. Co-operativa Campesina has yet to complete a full production cycle. The co-op idea has been tried in the past and has failed. Thus we would be foolhardy to claim that we have already demonstrated a solution to any of the problems of the rural poor. All we can claim is that we are working with a cooperative which we feel offers some promise of proving there is a segment of agriculture, even without major legislative changes in the tax laws, subsidy programs, and other forms of governmental assistance to the farmer, in which the small farmer can operate economically so long as he is provided with very sophisticated continuing technical assistance.

HISTORY OF CENTRAL COAST COUNTIES DEVELOPMENT CORP. AND CO-OPERATIVA CAMPESINA

Let me give you a brief history of how the Central Coast Counties Development Corporation and Co-operativa Campesina arrived in the position they are today. Central Coast Counties received an Economic Development Administration grant to provide technical assistance in the area of economic development starting in the spring of 1970. The corporation was approached at that time by a number of people who were interested in starting a strawberry growers cooperative. One of the interested groups included six men who were involved in a basic education program financed through O.E.O. Title III(b) Migrant Funds. The group decided they wanted to take on a project which would continue long after the conclusion of their classes. The project they chose was establishing a strawberry cooperative. Central Coast Counties worked with these families in an attempt to obtain financing for such a cooperative. A group went to discuss the project with the Farmer's Home Administration and were told in effect there was very little chance of getting Farmer's Home funding even though the Farmer's Home Administration has a special program for economic opportunity loans to such cooperatives. The group next went to the Bank of Cooperatives. Again we were told that such an operation involved too much risk. Commercial banks which were contacted gave the same response. The initial reaction of all funding sources was very discouraging.

The farm workers, however, were still determined. They decided to start a small-scale growing operation, raising zucchini, if only to prove that with a little assistance they could manage their own farming operation. With the results of this experiment, a detailed analysis of the strawberry market, and further information about the types of families that would be involved, Central Coast Counties went back to funding agencies to again try to raise the financing for a cooperative. This time they met with success. Both O.E.O. and a bank in the private sector were willing to put their money into Co-operativa Campesina.

Throughout the period in which Central Coast Counties was seeking funding a further federal program was essential in keeping the families together and working on the project. Central Coast Counties was able to get an Operation Mainstream contract from the Department of Labor. This grant enabled Central Coast Counties to pay a very minimal salary for people, who might not otherwise qualify for a job, during an initial on-the-job training period. Central Coast Counties has been especially fortunate in having as their Labor Department contact Andy Fernandez who has been flexible in allowing Central Coast Counties to use a portion of this Operation Mainstream grant to support some of the families working on the cooperative during the period in which the cooperative had no cash income with which to support the members.

Farming is different from most small business in having a very long start-up time. In the crops we are concerned with you have to wait many months from the time the land is first worked until there is any cash revenue. Once our cooperative is established this won't be a problem. The cooperative will have assets and borrowing power sufficient to finance its members through the slow periods. During the initial start-up period, however, the Operation Mainstream money has been essential to keeping the whole group together.

TECHNICAL ASSISTANCE AND TRAINING

Today we have a cooperative which has harvested several crops of vegetables, has harvested a first small crop of strawberries and is anticipating its first major stwaberry harvest this spring. Central Coast Counties does not see its role in connection with the cooperative as having finished at this stage. It has already conducted extensive training sessions for the members and considers continuing training and technical assistance to the families to be absolutely essential.

The type of training Central Coast Counties is providing the members falls into a number of different categories. Although the members come to the cooperative highly skilled in certain aspects of strawberry cultivation and harvesting they need further education, as do all small farmers, not just farm workers, in many aspects of business management and good farming practices.

The first area of concern in the curriculum being developed by Central Coast Counties is a review of the function, method of operations, and legal restrictions on cooperatives. The cooperative structure is compared with the various alternative forms of organization with its advantages and disadvantages discussed. Some history of the cooperative movement and the reasons for previous failures is also brought out.

Next the curriculum delves into basic business management problems. The education staff uses the structure of the cooperative as a model to bring out the differing responsibilities of the board of directors, various subcommittees of the board, the management staff of the cooperative, and the membership.

Members discuss the feed-back and evaluation system which has been built into the cooperative to help in arriving at management decisions. The group then discusses at length various management problems that have already arisen in the cooperative, looking at the way decisions were made, the sort of facts which should have been the basis for the decision, and approaches that the cooperative might use in handling such a decision should it arise again.

A further category of training relates to a number of basic business practices. The membership will go over the cash flows developed for the cooperative so that they will understand not only the operations of their cooperatives but also how to read cash flows for other business enterprises. Bookkeeping techniques will be discussed briefly along with how to read financial reports and basic principles of business law.

The final area in Central Coast Counties' current curriculum involves certain specialized farming practices. Two people from the University of California at Davis have already come and conducted an evening session in Spanish for the membership on certain scientific aspects of farming. The educational component of Central Coast Counties hopes to be able to translate a number of materials prepared by the Agriculture Extension into Spanish so that the members of the co-op will be able to read them. It also hopes to provide a detailed discussion of the procedures used in marketing fresh and frozen strawberries.

Undoubtedly more areas of training will emerge as we see what types of problems the members of the cooperative encounter and get more feedback from them as to the types of training they feel they need.

Central Coast Counties also provides certain types of ongoing technical assistance in the operation of the cooperative. The staff of Central Coast Counties works closely with the cooperative staff and the individual members in advising them of the areas which the Central Coast Counties staff sees as possible emerging problems. The Central Coast Counties staff also gives the cooperative feedback on the policy decisions they make.

Central Coast Counties feels that this type of technical assistance and training is necessary to ensure that the cooperative establishes a stable method of operations. We would anticipate that this type of assistance on a gradually phased-out basis will be required for at least one more year.

RECOMMENDATIONS

Based on the above discussion of the past history and present operations of Central Coast Counties and Co-operativa Campesina I would like to put forward the following recommendations to this Committee:

1. Establishment of a System to Provide Credit, Training and Technical Assistance to Rural Cooperatives. I have tried to show in the above discussion that our organization had to go to a number of agencies to put together its present program. I don't mean to criticize these agencies which have helped and encouraged us. I would only suggest that if we can demonstrate the viability of our approach during the next year, one of these agencies should establish a program to fund all of the facets of rural cooperative development out of one office. Very few other groups can be expected to have the phenomenal good luck and perseverance which Central Coast Counties and Cooperativa Campesina have had in patching together three or four different programs to come up with one workable operation. In suggesting this I am not suggesting that this program be housed in the Department of Agriculture. Had we been limited to just the Farmer's Home Administration as a funding source we would have given up long ago. It is absolutely essential that any agency which should establish such a program be sympathetic to its aims as the Farmer's Home Administration appears not to be.

Title VII of the Economic Opportunity Act Amendments just vetoed by our President might have been a first step in the direction toward establishing such a program. I would encourage this legislation as well as further efforts to provide the training and technical assistance resources.

Particularly important in Rural Economic Development is a source of information on the latest research thinking about O.E.O. programs and the so-called War on Poverty are urban intellectuals. They have defined the problem as the "urban crisis." The problems in the rural areas and their relationship to the urban crisis have been neglected because of the basic orientation of these intellectuals. We have encountered the same problem in trying to develop our co-op. Most of those who are interested and sympathetic with what we are trying to do don't possess the expertise we need in agriculture. Most of those who do have the background are not terribly sympathetic. There are, of course, a number of exceptions, but it is my conclusion that rural programs have a harder time than their urban counterparts in accumulating the expertise needed by the groups they are trying to assist and in keeping abreast of the latest changes in agriculture. To the best of my knowledge no one has studied which types of crops would lend themselves to the sort of farm worker cooperative that we have set up. Only very basic studies have been done of the organizational and operational problems of cooperatives such as ours. We have a sense that we are pioneering a new approach, which is good for the morale of our organization, but is hardly helpful in making the best management decisions and in coming up with approaches which may be useful in other areas.

2. Keying Manpower Programs to Economic Development. I have described above the very fortunate experience we have had with our local Labor Department representative in allowing us flexibility in administering an Operation Mainstream grant as support for the co-op. From my limited experience it would appear as though Department of Labor Manpower Programs are not keyed to helping the workers who are assisted through the Manpower Program build up an equity in the operation in which they are working. We believe that such an emphasis in the use of Manpower funds offers much more long-range benefits. We would encourage any steps that are necessary to make it a priority for these programs to give first crack to any job opening which would build in an opportunity for the worker to hereby gain some sort of equity or management control interest. These Labor Department funds are absolutely essential in our experience during the start-up time of our economic development enterprise. We feel other groups should have access to the same sort of funds.

Senator STEVENSON. Thank you very much, gentlemen. Your contribution to our hearings is very important.

Our next witness is Mr. Arthur Blaustein from the Economic Development Center of the University of California at Berkeley.

Mr. Blaustein, I see you have not only a statement but a rather lengthy statement. We would be glad to enter it in the record if you would like to summarize it.

Mr. BLAUSTEIN. I will try and summarize it as much as possible.

As a matter of fact, first I do want to apologize for there are some changes in my text that I am going to present verbally. I just recovered from flat on my back with the flu and didn't get a chance to go over my text and get new copies run off. So there will be changes in my verbal testimony.

STATEMENT OF ARTHUR BLAUSTEIN, ECONOMIC DEVELOPMENT CENTER, UNIVERSITY OF CALIFORNIA, BERKELEY, CALIF.

Mr. BLAUSTEIN. In the letter which I received from Senator Stevenson he asked me to do, one, an analysis of economic development needs in rural areas; two, a critique of successes of pump-priming and trickle-down series; three, an impact on Federal agencies and local governments on rural programs; and four, suggestions of reforming national policies.

And as I read later in the letter it said, "It is our policy to limit your remarks to 15 minutes."

It is reminding of the World History course I once had in the eighth grade. I went from Moses' Sermon on the Mount to President Truman's decision to drop the bomb in 8 weeks.

Mr. Chairman, in my testimony today I would like to address my remarks to four general problem areas that affect the rural poor, and, in particular, the migrant laborer and his family. Others have offered testimony on more specific issues such as vertical corporations, concentration of land ownership, water use, and population distribution.

The subject areas that I have been asked to cover are much broader and more complex; and therefore do not lend themselves to simple explanation or description—to the use of charts, curves and figures—nor to easy solutions. They have to do with attitudes, structures, bureaucracies, assumptions, and theories.

The first subject area has to do with the interrelationship between economic and political power and more important how this power is wielded to influence, control, and subjugate minority and low-income rural poor. The problem is manifest, economic development and jobs are an important part of the equation but political influence is, above all, critical to the solution. Too often these issues are analyzed separately but, in the real world, they are very much interdependent. The gut of this critical issue is the aspect of community control; of individuals participating in decisions that affect their own lives.

Existing policies are very often next to useless. Worse than that, in many cases the programs that are offered either waste our human resources or despoil our natural resources. They certainly do not contain the dimension that allows for social or economic change for rural low-income families. The "welfare/mobility" strategy is not working. The so-called "growth center" strategy is simply one of "borrowing from Peter to pay Paul." It makes very little sense in practical terms. The President has decided on the recommendation of GAO to drop the title III-A loan program run by FmHA—which, incidentally, in its administration of the program, disregarded the intent of Congressional legislation. Local politicians and bureaucrats are, in many instances, "owned" by large agricultural conglomerates. The rural poor have nowhere to go but up; unless the bottom falls out totally.

At the beginning I want to make it clear that I strongly believe that a coherent policy of economic development is the most sensible and viable strategy for alleviating poverty in rural America. I suggest that the best way to achieve this goal is to offer an opportunity to poor rural people to own and run their own farms and to establish and own cooperatives—thereby enabling them to earn a decent living for themselves rather than be forced between migration to the urban slums and a life of welfare and/or (chronic) dependency. I do not feel that it is an understatement to say that the present pyramid of corporate subsidies, government, quasi-regulation, bureaucratic insensitivity and legislative indifference is serving the purpose of keeping people in human bondage. The circumstances and conditions which I have described, whether by deliberate plan or not, have been imposed on rural America in a piecemeal fashion with practically no thought to overall policy nor to the plight of human beings or to the environment. Furthermore, although I have only read it briefly, the new act proposed by Senator Humphrey and others will not resolve the aforementioned problems: it will perpetuate the faults of an inadequate system—that is, except for corporations.

With regard to political implications, let me quote to you the following example:

"Coca-Cola's treatment of migrant workers presents a perfect lesson. In 1960 Coca-Cola bought Minute Maid orange juice and became one of the largest employers of migrant workers in Florida. At the time of the purchase in 1960, Coca-Cola executives must surely have known of the exploitation of the migrant worker in the Minute Maid operations—the labor situation is a crucial component of any feasibility study preliminary to purchase of a major corporation. For 10 years Coca-Cola took no action to reform its policies towards the migrants. Now it is beginning to implement some reforms, but only after the activities of Cesar Chavez came to the attention of the president of Coca-Cola, only after a television documentary and congressional hearings embarrassed the corporation. In short, only after Coca-Cola's actions were treated as the *political* acts of a firm not exactly fighting for competitive survival." [1]

The *second* area that I will address my remarks to is bureaucratic indifference. For those who live out in the boondocks of a rural America it is probably the most time-consuming problem. Individuals and groups often have to travel long distances to see officials. *Thirdly*, I will attempt to evaluate the impact of existing Federal programs by citing the examples of policies of those agencies which are specifically responsible for economic development. *Finally*, I will attempt to offer an analysis of the "trickle-down" theory and suggest specific legislative recommendations for alternate means and mechanisms for delivering services, resources and subsidies to poor rural communities and individuals.

The problems that I mentioned cannot be discussed separately in cubbyholes. Hopefully, my remarks will weave the four issues into some sort of harmonious theme.

First, in dealing with bureaucracy, most county, State and Federal agencies are like the Empire State Building without elevators. Somewhere up on top is the administrative apparatus, the public is down in the basement, and in between is a vast air space occupied by the bureaucracy. The consequence of this three-tiered arrangement is that the average citizen lives in nearly total bewilderment about his government and, on the other side, the administrative officials in many cases work in general ignorance of what their own bureaucracies are doing to the individual. A different style of frustration lies in wait for the citizen who thinks he can accomplish something by interrogating public officials at public meetings. If he (or she) tangles with the head of a bureaucracy, he will find himself fighting way out of his class. Any local commissioner will tell the citizen that the citizen is "not in possession of all the facts." The common thread that stitches all the official responses together is their irrelevance to the questions. Such confrontations give the bystander the feeling of traveling through one of those amusement-park concessions where iron bars turn out to be rubber and where mirrors make a man seem 7 feet tall or 7 inches short. The citizen might try to barge into the bureaucratic establishment and demand an audience, but that is tantamount to wandering through a pitch-fork cave, full of hollow voices telling the individual he is in the wrong department and will have to go to another agency. It's a page out of Plato's "Myth of the Caves."

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[1] Philip W. Moore, "What's Good for the Country is Good for G.M.," page 17.

I mention this and the next point, not in jest—for a terribly serious problem is created.

Seventy years ago when Government was *really* corrupt, public employment was divided along a 2-to-1 ratio. For every 100 real persons who put in a day's work, there were 50 ghosts who were carried on the payroll. In snow, sleet, slide, hurricane, famine, fire, riot or grand jury investigation, the real ones had to show up. A prominent journalist recently recalled the plight of one large city that was faced with an annual crisis. It could have been any of the above-mentioned difficulties but in this case it happened to be a transportation problem.

The mayor made the tactical blunder of issuing an appeal to every public servant, asking them to stay at home unless they felt their job was essential to the public good. It was reported that between 80 and 90 percent stayed home. Assuredly, that was not a safe choice to offer to local civil servants; the conclusion being that since the postreform days of "bossism," and "country courthouse" rule, the merit system has elevated the no-show proportion substantially (33 percent). My point is that an absentee bureaucracy is also like absentee corporate ownership, it really does not care what is happening in the locality.

I should have prefaced my remarks by saying that my references to public officials are very general. Of course, there are individuals who work long hours and go out of their way to help poor minority people, but unfortunately they are few and far between.

If the Senators ever had the chance to wander through some of these local county agencies and Federal bureaucracies they would understand. It becomes more difficult when it involves low-income individuals who have language problems. My references to Federal agencies are relative also, they vary from agency to agency, department to department and regional office to regional office. This having been said, we can now proceed to the more serious business of analyzing the policies and efforts (administrative and bureaucratic) of those Federal agencies which are responsible for providing grants and guidelines, programs and priorities for low-income and minority groups in rural areas, especially in the areas of economic and business development, manpower training, and employment.

ECONOMIC DEVELOPMENT ADMINISTRATION

The Economic Development Administration (EDA), as you know, is an agency of the U.S. Department of Commerce, established in 1965 to encourage economic development in certain "lagging communities" throughout the country. In order to attract private industry to locate in these communities, EDA has various programs designed to "sweeten the pot" for private investment and corporate interests.

In its effort to stimulate industrial growth in areas with high unemployment or low family incomes, the agency has created local corporations for the dispersal and management of funds.

Among other inducements, EDA can offer public works grants and loans, direct business loans, and can give technical assistance grants. They have tended to concentrate in small towns and rural areas as well as making substantial business loans (the fiscal 1969 average loan being $1,004,000). Most usually, they have referred smaller borrowers to the SBA and private sources. EDA has also given support to other Government agencies and has generally participated in projects when supplementary funding is available from other Federal agencies.

Although EDA has concentrated upon rural areas they have more recently been involved in establishing several major urban projects, including ones in Los Angeles (Watts) and Oakland, Calif.; in the "stockyards" of Chicago; and in Brooklyn, N.Y., at the old Navy yard. I refer to these urban areas because that is where pump-priming and trickle-down has been considered most successful. If you plan to create an economic model for rural America, does it not make sense to examine the track record of the model you are claiming success for?

After the Watts riots in 1966, industry was reluctant to move into the area. EDA underwrote a technical assistance study to determine the economic feasibility of development, and concluded that the area could, under normal circumstances, be a natural center for industrial development. Watts was well-served by utilities and transportation, and has a large supply of under-utilized industrial and commercial land. Watts also has a strong industrial market, and a large labor pool available for diverse industrial jobs.

EDA proposed that a local development corporation be created with establishment business and financial leaders from the Los Angeles area, both black and white to administer the development. EDA stipulated that the local development corporation be independent of any local community groups, and that community participation be kept to a minimum. The agency rationalization was that business acumen was more important to community development that was "relating to the community." Various community groups felt otherwise and suggested that the whole project was another shuck; i.e., to help major corporations and improvement the status of a handful of Negroes who "were on the make." From its inception most community groups felt left out in the cold.

Thus, Watts Economic Resources Corporation (ERC) was formed in June 1968 with nine Los Angeles trustees, and was empowered to buy and sell land, machinery, buildings and equipment; to borrow money; and to guarantee third-party loans. EDA arranged for an OEO grant of $3.8 million to the project, which EDA matched, for programs subject to EDA approval.

Watts' ERC has since created a 45-acre industrial park, with EDA approval. Lockheed Aircraft agreed to be the first major tenant, and promised to provide jobs and training for the unemployed. It is generally agreed that the project was not a success. Lockheed seems to have a poor track record for delivering on promises.

Across the bay the city of Oakland was designated as an EDA target area in 1965 because of persistent unemployment. EDA sponsored an interagency task force in Oakland—with the participation of the Small Business Administration, the Departments of Housing and Urban Development, Health, Labor, and OEO—charged with the responsibility of developing a coordinated Federal and local strategy to help poor people. Since Oakland's problems were so critical, EDA established a program to reverse the unemployment trend in four areas within the city, before the task force had completed its strategy. In addition, EDA committed funds for public works loans and grants, business loans and technical assistance, including a $13 million grant to World Airways, which promised to train minority individuals.

The Oakland project can be best summed up in the words of a journalist, Murray Kempton, in an article, "Land of Dreams—Oakland, California." He said:

> The salvation of Oakland, like so many great undertakings in America, is rather going to be done.
>
> Its disaster is the one common to cities: In the last 10 years its overall population has declined 5 percent, and its Negro population has increased 73 percent. It is a city of considerable amenity. Only 15 percent of its housing units are substandard.
>
> Oakland is also a tight union town, and the Labor Dept. estimates that one-third of its labor force is unable to earn a decent living.
>
> It is ridiculous to quarrel over whose fault this is, although the city and the special federal team which has been sent in to repair the damage seem to have spent a good deal of time quarreling about almost nothing else. . . .
>
> Oakland strives for its reclamation pretty much as Americans . . . always do—by building edifices for the wonderment of non-residents. Its port commission has a higher budget than the entire city government. The 30 percent of the white population which has moved out in the last 10 years kept its construction union cards in Oakland, of course; the federal government has a rule of thumb that 58 percent of the wages paid on its Oakland construction projects go to people who live outside of Oakland.
>
> The city is, of course, concerned about its poor and not just because nowadays it isn't easy to get federal money without attaching a rider certifying that somewhere in the plans there's a little grease for the hard core.
>
> The government will shortly grant $11,000,000 to World Airways * to expand the local airport. The president of World Airways was listed recently as in the $100,000,000 class, which would suggest that he might be able to find $13,000,000 around the money market somewhere; but the government came rushing to his relief because he promised that his new facility would train and hire Oakland Negroes.[1]

Eugene Foley, then Director of EDA, seemingly satisfied with the agency's effort, said, after the commitments in Oakland:

> We need bold and imaginative action in each ghetto and we offer inducements to obtain it. If we can devise schemes for a legitimate profit to be made in the ghetto then we will see the vast economic and talent resources of American business begin to apply themselves to the solution of urban problems.[2]

One source in Oakland, a leader of a community group, indicated that at last count 14 individuals—hard-core blacks—had been trained since World Airways got that grant. Now private industry really ought to be able to do better than nearly a million dollars per black trainee. The pump-priming inducements that Foley felt were so conducive to "bold and imaginative action" were, to say the least, generous; the trickle-down aspect so embarrassing that any Federal official, economist, manpower expert or private industry spokesman should be totally ashamed to even refer to the theory.

The Brooklyn Navy Yard project has been a failure in terms of manpower training, employment and business standards. It was a giveaway to local Kings County politicians and their business allies and involved very little minority/community input.

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* The actual sum was $10,650,000 (60% in grant monies and 40% in loans at an interest rate of 3¾ % over 40 years).

[1] Murray Kempton, "Land of Dreams," *New York Post*, May 14, 1967.

[2] Eugene P. Foley, The Achieving Ghetto (Washington, D.C.: The National Press, Inc., 1968).

Another well known EDA project is right here in California. It was the funding of Walt Disney's Mineral King project. Another "hard-core" company, Disney's assets were listed as $267.6 million as of October, 1970.[3]

This project—a ski resort—was billed as a means to help the rural poor of California by stimulating economic activity and jobs.

The Mineral King project is not only a typical gesture of EDA's coziness in subsidizing big business or political friends of the administration; but it is a symbol of the Federal bureaucracy's indifference to America's environment and ecology. Walt Disney Productions had been granted permission from the U.S. Forest Service to despoil an untouched part of the Sierra Valley, surrounded on three sides by the Sequoia National Park. The distinct financial advantage was that the resort's location was approximately halfway between Los Angeles and San Francisco.

At the center of controversy over Disney Productions' attempt to rape the Mineral King area, one of the most beautiful in the West was: the right of the Forest Service to license these kinds of projects without holding public hearings; the propriety of the Government to lease large tracts of national forest land to private profit-making resort speculators; and the decision to put a highway across a national park to give subsidized access to a corporate speculator. The Sierra Club has challenged the Mineral King plan and it is expected that the final decision will be made by the Supreme Court later this month. The groundwork for Federal participation through EDA was laid back in 1966 and 1967.

Originally, Interior Secretary Udall was opposed to the plan which would run the road across Sequoia National Park. One article cited the fact that:

> California's highway engineer J. C. Womack said the Mineral King road could be built only "at the expense of other critical (roadbuilding) projects." He added that the use of funds set aside for other road-building projects would be ". . . very disruptive to previously approved planning and scheduling of projects in the Southern Counties" of California.[4]

Nevertheless, the deal that was reportedly arranged between Gov. Ronald Reagan (it was reputed that Disney had contributed heavily to his 1966 gubernatorial campaign) and the feds was that the administration issue a permit and funds to allow for construction of the road while Reagan would assure that the feds would receive the necessary acreage to establish the Redwood National Park.[5] Apparently the Governor doesn't always feel that the Federal Government in Washington is—as he has often referred to it—"That invisible army on the Potomac leading us down the road to socialism." The permit was finally issued in 1967 and EDA came across with $3 million for the California Highway Commission on the grounds that the Mineral King "winter wonderland" resort was essential to the State's economy—and would ultimately help poor folk. From ski slope to trickle-down, the poor and unemployed of California were snowed-under once again.

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[3] Jerry Carroll, Big Mickey Mouse Law Suite, San Francisco Chronicle (Jan. 8, 1972), p. 4.

[4] Roger Rapoport, "Disney's War Against the Wilderness," Ramparts, November, 1971.

[5] Rapoport, *op. cit.*

OFFICE OF ECONOMIC OPPORTUNITY

The War on Poverty was officially launched by the creation of the Office of Economic Opportunity (OEO) which was the major handiwork of the 1964 Economic Opportunity Act.

In its effort to alleviate the poverty of millions of Americans—urban and rural—black, white, Mexican-American, Puerto Rican and Indian—OEO was given program responsibility in a wide variety of areas which included: manpower, housing, health, legal aid, education, etc.

> . . . which provided services, assistance and other activities . . . to give promise of progress toward elimination of poverty or a cause or causes of poverty through developing employment opportunities, improving human performance, motivation, and productivity, or bettering the conditions under which people live, learn, and work; . . .[1]

Some of its better-known programs were Vista, Headstart, Legal Services, Upward Bound, the Job Corps, the Neighborhood Youth Corps, and Foster Grandparents, among others. But at the gut of the entire antipoverty effort was the Community Action Program which was designed to give low-income Americans an opportunity to identify, design, plan and initiate their own priorities and emphases in over 1,000 communities across the Nation.

> . . . which developed, continued, and administered with the maximum feasible participation of residents of the areas and members of the groups served; . . .[2]

Toward this end, OEO-funded Community Action Agencies (CAA's) were designated as local-initiative programs. They were given demonstration grants and "required" to maintain a measure of community control in their planning.

> . . . which is conducted, administered, or coordinated by a public or private non-profit agency . . .[3]

In succeeding amendments to the act, the Congress cut the heart out of community action and all but eliminated local initiative. In addition by acts of Congress and decisions by the White House some of OEO's most effective programs were "spun-off" or transferred administratively to old-line agencies (such as HEW, BIA, SBA, HUD and Labor) and State and local agencies, where it was assured that their effectiveness would be severely diminished. Such was the fate of Head Start, Neighborhood Youth Corps, and the Job Corps among others. While the political base and programmatic effectiveness of OEO was being reduced, however, the 1966 and 1967 amendments to the Economic Opportunity Act upgraded OEO's role in the area of economic development. It gave the agency authority to establish "Special Impact" programs in selected low-income communities.

The title I-D amendment to the Economic Opportunity Act (co-sponsored by the late Robert F. Kennedy and Jacob K. Javits) of 1967 stated forthrightly that communities have the right to control and to direct the improvement of a whole variety of business and social opportunities. The community-owned corporation was the key to the whole concept. As Robert Kennedy said in December 1966:

> The measure of the success of this or any program will be the extent to which it helps the ghetto to become a community—a functioning unit, its

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[1] Section 202A, Title II, Economic Opportunity Act of 1964.

[2] *Ibid.*

[3] Economic Opportunity Act, *op. cit.*

> people acting together on matters of mutual concern, with the power and the resources to affect the conditions of their own lives. Therefore, the heart of the program, I believe, should be the creation of community development corporations (CDC's) which would carry out the work of construction, the hiring and training of workers, the provision of service, the encouragement of associated enterprises—The community development corporations . . . would find a fruitful partnership with American industry . . . A critical element in the structure, financial and otherwise, of these corporations should be the full and dominant participation by the residents of the community concerned . . . through CDC's, residents of the ghettos could at once contribute to the betterment of their immediate conditions, and build a base for full participation in the economy—in the ownership and the savings and the self-sufficiency which the more fortunate in our Nation already take for granted.

In brief, the CDC concept embraces the central principle that a hub corporation, usually non-profit, is organized by community (i.e., poor or minority) representatives to acquire outside resources such as venture capital, short and long term loans, and technical assistance, etc., in order to develop the economic, human, and physical resources of the community. The hub corporation then, either invests in or makes loans to a variety of subsidiary for-profit corporations or cooperatives—each one accruing concrete benefits for the poor community—through flexible policies of financial support which are geared to the specific needs of the particular enterprise. Usually the CDC retains virtually complete control of the subsidiary corporation throughout the start-up period; many, however, plan to make stock in subsidiary corporations available at very low cost to employees and residents of the communities in which they operate, and a number intend that majority control will eventually be in the hands of the workers and residents. Although there are variations among the different programs (no two CDC's are exactly alike—as no two communities are alike) and each project reflects specific local needs, the organizational structures are basically similar in design and scope.

In 1967, the $25 million obligated to the Special Impact Program was administered through the Department of Labor. In fiscal year 1968, $20 million was obligated with the money being divided between four agencies—OEO, $2 million; Labor, $11.5 million; Agriculture, $2.7 million and EDA, $3.8 million. In 1969, again $20 million was made available with $11.4 going to OEO and $8.6 to Labor. In 1970, $36 million went to OEO. The reasons for finally placing control of the program in OEO are many but two seem to be overriding: In January of 1969 the Westinghouse Learning Corp. delivered its first evaluation report covering the fiscal year 1968 projects. The report pointed out that there were many operational problems with the Department of Labor projects. It also concluded that the Agriculture and Commerce projects involved only limited economic development and did not meet the principal requirement of the act: The establishment of programs directed toward the development of entrepreneurial and managerial skills and the participation of the target population in ownership of business ventures. Only the Hough Project (Cleveland) was found to be addressing itself to the comprehensive nature of the intent of title I–D. Partly on the basis of that report and partly because of the growing interest in the idea reflected in the OEO model, the decision was made by the Bureau of the Budget to have OEO administer the entire I–D program in fiscal year 1970.

Senator TAFT. Was that bad or good?

Mr. BLAUSTEIN. It was very good.

In that year OEO refunded nine existing CDC's and funded for the first time 23 new Special Impact grantees. By June of 1971 OEO had funded with operational moneys (venture capital) 18 urban and 19 rural CDC's; an additional five CDC's received planning funds.

A CDC is essentially a cooperative, set up in a neighborhood to run economic and social service programs for the community. Its main activity at the moment is operating business or profit-making ventures for the community. Some have set up factories or shopping centers. Others run maintenance services, cattle feeder lots, fish co-ops, catfish farms, wood-work and toy co-ops, strawberry producer co-ops or stores. Other community development corporations operate local services, as well as perform municipal services under contract from local government. The community development corporation can be set up by civic groups and churches, by a Model Cities Board or poverty program Community Action Agency, or by any group of individual residents of that community. It really merits the title of community development corporation, however, if any community member may join.

In principle, this inclusiveness distinguishes the community development corporation from ordinary private businesses, such as those mentioned in programs for minority business enterprise, as well as from branches of large corporations in poor neighborhoods. In these ordinary private businesses, a limited group of individual owners or partners or shareholders run the corporation, and receive the profits for their own private use. In a community development corporation, the profits accrue to the community, and the community decides what to do with them.

Community development corporations, thus, are a possible form of organization for a community that has economic, social, or political needs, and is interested in working out new ways for its members to cooperate with each other in meeting them.

Initially, most of the CDC's that had been started were in economically depressed black and Chicano urban neighborhoods, but more recently CDC's have been established in rural Indian, Chicano, and white communities as well as urban Chicano and low-income white neighborhoods.

SMALL BUSINESS ADMINISTRATION

Since its inception, the SBA—known in minority communities as stop black advancement—had a reputation for being a bureaucracy that was generally unresponsive, if not specifically hostile to the needs of minority individuals and groups. SBA officials by and large had a small town white merchants' viewpoint which generally did not include providing any kind of competitive advantage to blacks and Mexican-Americans.

There are several SBA programs which, though extremely useful, had been almost exclusively directed toward assisting white businessmen. Information and access had been systematically denied to minority entrepreneurs. For example, the SBA was authorized to loan up to $350,000 for up to 15 years at 5⅝ percent maximum interest, for construction, expansion or modification of small business facilities. In addition, SBA was recalcitrant in offering participation to minority business ventures by guaranteeing bank loans for applicants who could not meet commercial collateral requirements. The SBA had the power to guarantee up to $350,000 or 90 percent of a commercial loan, whichever is less, and could also directly participate with up to $150,000. Generally, applicants would go directly to the SBA which then would pass the information on to a commercial bank for approval and loan at a locally allowable interest rate.*

Two other SBA "brick and mortar" capital programs could also have been of value to small minority entrepreneurs. They were the economic development loans (EDLs) and the small business corporation loans (SBIC) programs. Again information had been withheld from minority businessmen.

Economic development loans are indirect loans, intended to help small firms acquire and build new facilities or to expand or modernize. This was accomplished through State development companies or through local development companies (LDCs), which then disperse funds to small businesses.

State development companies may be financed up to the amount of other outstanding notes, for up to 25 years at 5½ percent interest. The State companies may then loan money for equity capital or for long-term debt financing to small firms.

LDCs could be profit or nonprofit and could receive almost unlimited loans. These funds would then be dispersed to establish industrial parks, conduct urban renewal, or to give aid to small businesses. LDCs—as a legal entity—must be formed by at least 25 citizens, and are thus subject to some degree of community control.

SBICs are profitmaking associations, which may be licensed by the SBA to supply funds to small businesses. SBICs may make available loans for venture capital, long term financing, or management assistance. No community representation is required on SBICs.

In general, private financing must supplement Government funding of SBICs in a ratio of 3–2. The SBA would loan up to $7½ million to an SBIC, and the initial private investment would run from $150,000 to $1 million, depending upon the area. These requirements obviously limit the value of this program to minority entrepreneurs, who are unlikely to have large private sources of capital, and who were not permitted to use funds from other Federal agencies as "paid in capital."

To those who can qualify, a major advantage of the program is its liberal terms. There is a minimum financing period of 5 years, but there is no maximum term. Additional borrowing power is available, up to $10 million, for SBICs with sufficient capital. There are currently (in late 1968) around 400 SBICs in the U.S., with private investments of over $300 million.

SBA was not designed to serve the rural poor.

The efforts of the Bureau of Indian Affairs (BIA) have, on the whole, been consistently bad. The attitude of the agency's bureaucrats generally is that of protecting the stockade rather than of acting as advocates on behalf of the Indian tribes they are paid to serve. More specifically, the practice of giving licenses to "white traders" on the reservation is comparable to the company store operations in a corporation town in the 1880's. The traders, for the most part, are allowed to markup their goods at considerable profit. In addition, on many reservations they own the only gas station, have the only telephone and in certain instances, run the post office. If there is a dispute over money owed to the store, some traders have been known to open envelopes containing Federal checks to individual Indians. The circumstances and conditions are much like, if not worse than in human bondage.

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*One example of the kinds of bureaucratic game-playing that occurred involved a minority contractor, an SBA regional office and one of the country's largest banks. The processing of the black contractors application was held up for 6 weeks while the SBA office and the bank's loan department exchanged [illegible] letters in a jurisdictional dispute as to who should type the form.

Furthermore, the BIA and the Farmers Home Administration (FmHA) have systematically discouraged and prevented Indian groups from establishing their own co-ops on the reservation, and to compete with the white trader.

With regard to rural economic development programs sponsored by the Federal Government, low-income and minority groups have fared much worse than their urban brethren. Most Federal efforts are clearly stacked in favor of the wealthy farmer or the corporate "agri-business." The concentration of wealth in the hands of a small number of rich farmers and corporations, as well as vertical conglomerates, is the Department of Agriculture (DofA) "official policy" that is accepted and encouraged. This, of course, is done at the expense of the poor and minority individual farmer as well as those seeking to establish low-income cooperatives. The FmHA office in the State of California has never funded a low-income co-op in the State out of title III loan funds.

In testimony before the Senate Subcommittee on Employment, Manpower and Poverty in August of 1968, an article which appeared in Fortune Magazine by Roger Beardwood, was read into The Congressional Record.[1] It offers some excellent insights into both the plight of the rural poor and the institutional power—political, economic and bureaucratic—that is exercised to perpetuate these tragic circumstances and conditions. Beardwood wrote that:

> Big farmers in the South not only make decisions that leave hired hands and sharecroppers jobless, homeless, and penniless. They also have a powerful voice in the formulation and execution of farm policies and programs that vitally affect the survival of independent Negro small farmers. In 1950 some 492,000 Negroes in the South were classified as farm proprietors and managers; by 1960 only 167,000 remained in that category. There are fewer now, and if the trend continues unabated, almost none will be left by 1975. Many of these small farmers and their families could be helped to stay on the land for at least another generation. But three things are against them: their farms are very small, they lack the money to mechanize, and they do not have a Washington lobby.
>
> The big farmers' control over small farmers' destinies rests on two facts of political life. First, the key agricultural committees in Congress are largely controlled by the southerners; some of them, like Senator James Eastland of Mississippi, are farmers themselves. Second, the most important Agriculture Department programs are administered by State and country groups that are dominated by whites. The black farmer is helped where the administration is fair and unprejudiced, and hindered where it is not.
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> The Negro farmer's troubles frequently start with the Agricultural Stabilization and Conservation Service. The ASCS is at the very heart of the farm program, that complicated structure which supports prices, sets production

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[1] Congressional Record, Washington, August 2, 1968, Vol. 114, No. 137.

and marketing quotas, conserves land by taking it out of intensive cultivation, and allots the number of acres on which farmers may grow crops such as cotton, tobacco, and corn.

By its very nature, the ASCS system works best for large farmers. For the land on which they do not grow crops, farmers are compensated according to their past production; large farmers have usually had a higher crop yield per acre than small farmers. Moreover, large farmers can take out of production their least fertile land; small farmers do not have that margin. And on the land they do continue to cultivate, large farmers can continue to increase income by using modern technology. Small farmers, in contrast, lack the capital and knowledge to mechanize, irrigate, or use the latest pesticides.

Theoretically, the ASCS is highly democratic, operating through a pyramid of State and local groups. At the top is the State committee, appointed by the Secretary of Agriculture after consultation with farm organizations, State directors of agriculture, deans of agricultural colleges, and political leaders. Under the State committees are three-man county committees that are elected by community committees chosen by farmers themselves.

But Negroes sit on only five southern ASCS State committees. And there are only 454 Negroes among the 37,000 community committee members. Most important, no Negro sits on any county committee (four have been elected as alternate members). And it is these all-white county groups that hire the ASCS staff that administers the Federal program. This year only 310 Negroes had permanent full-time jobs in 2,892 county offices in the entire Nation, and no office had a Negro manager.

Many small Negro farmers would do far better if they stopped growing cotton, corn, tobacco, and other crops in the allotment system. By concentrating on such other crops as cucumbers, squash, cabbage, and sweet potatoes, which are outside the quota system, they could cultivate all of their land instead of only part of it. Moreover, since the production of such crops has not yet been heavily mechanized, the small farmer could compete with his larger neighbors.

The Cooperative Extension Service is supposed to help farmers to make changes of this kind by advising them on which crops to grow, on cultivation methods, and on farm management. But the familiar southern pattern of separate but unequal facilities depreciates the Extension Service's value to Negro farmers. Until 1964 the service was completely segregated; the Negro extension staff worked out of separate offices. (Some of them lacked even a typewriter.) Now the formerly separate staffs have been merged; but many Negroes are still paid less than whites doing comparable work, and in only two counties do Negroes head the Extension Service. A number of white supervisors are less qualified than, and junior in service to, their Negro subordinates.

Furthermore, the Extension Service lacks both vigor and imagination. Extension workers generally give advice only to those people who ask for it—although some of the people in greatest need, those living in remote areas, are unlikely to ask for it because they do not know it is available, or because they seldom go to the county seat and cannot write a letter. The service has also failed to encourage enough people to grow their own food. For generations, agricultural experts have urged farmers to buy less food at the store, and grow more on their own land. But in many parts of the rural South, most poor homes, black and white, have no vegetable gardens, partly because landowners have a vested interest in forcing workers and sharecroppers to buy at the company store; thus they insist that their people grow cotton and tobacco right up to the front door of their shack.

A third branch of the Agriculture Department on which black farmers should be able to lean is the Farmers Home Administration: It is empowered to lend small farmers money to build or improve their homes, buy or enlarge farms, buy machinery, start businesses that will increase nonfarm income, finance the raising and marketing of crops, and make loans to farmers' cooperatives. To obtain help, a farmer must be small—but not too poor. He has to convince the local office—staffed by Federal employees—that he needs money for a good reason. Then a county committee of three must certify that he cannot get the money through commercial channels, but is nevertheless a good credit risk.

In the last several years there has been a slow, minimal improvement in the administration of Agriculture Department programs, brought about by pressure from the civil rights groups, a firmer Federal policy, and by Negro farmers themselves. Burke County, Ga., is one of many places where the pressures are rising. The ASCS office is a small, red-brick building in the county seat of Waynesboro. Recently, while three Negro farmers waited to talk about crop allotments, the acting manager, Frank S. Cates, described things as he saw them. "I'll admit the small farmer is more vulnerable than the big one," he said, "but these minority people who live in these shacks don't want to work. They'd rather go off somewhere and get on relief. You know this white-black thing. We never had any problem until these outside agitators came in. I don't know what the younger generation will come to, but the older people get along just fine. There's nothing an ordinary man can do about the situation. J. Edgar Hoover knows it's the Communists." [1]

A WIDER PERSPECTIVE OF ECONOMIC DEVELOPMENT

With the exception of one bright spot—community development corporations—the cumulative effort of years of activities, policies, and confusing slogans rural and urban can be summed up in the following general statements.

(1) Relative to any conceivable business criteria, there is still no such thing as minority capitalism or enterprise. (For example, black-owned businesses employ an estimated 150,000 people and generate less than 1 percent of the total black national income.)

(2) There is no overall, coherent, public or private sector strategy for community economic development.

(3) Federal and State support of community economic development has been mainly political rhetoric.

(4) Corporate involvement in and financial institution support of community economic development has been largely advertising and public relations.

(5) Private sector coalitions and advisory/support groups have been overpublicized and underproductive.

(6) No one black, tan, or poor individual or group can speak for the majority of the poor regarding economic development.

(7) New legislation, although useful, is not essential to achieving moderate results.

(2) Current Federal institutions, with some changes, could be extremely responsive and effective in developing community economic projects.

(9) Time is running out. Those community leaders who were willing to give the administration a chance are under severe pressures from their constituencies to deliver concrete projects.

(10) The basis for economic development, as viewed by most minority (poor) constituencies, is a community problem, rather than a matter of merely creating a handful of new entrepreneurs.

WHY DO THESE CONDITIONS EXIST?

(a) Lack of cohesive leadership by the Federal Government in providing a comprehensive strategy.

(b) Lack of corporate and banking involvement.

(c) Lack of genuine coordination between governmental agencies: Federal (OEO, DofA, FmHA, SBA, OMBE, EDA, Labor); State; and municipal.

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[1] Congressional Record, *op. cit.*

(d) Lack of hard information and intelligence as to what is really happening in the whole field (a communications gap).

(e) The inability of the white business and political establishment to admit to itself that it is unwilling to encourage the development of institutions for the minority (poor) community that might one day demand interaction on the basis of real equality (institutionalized racism).

(f) Lack of leadership, direction, and experience on the part of nongovernmental organizations which were established to provide venture capital, technical assistance, or other expertise.

(g) The inability of Government and business leaders to perceive the full dimensions of economic development as a multifaceted, community issue, rather than on a piecemeal basis.

In summing up, Murray Kempton's perceptions of the reasons for the EDA giveaway in Oakland seemed to be equally true for the Federal Government's rationale for protecting and supporting the establishment constituencies that they so generously favored with funds, contracts, and other assorted goodies—"to him who hath it shall be given."

A former Secretary of Commerce once wrote:

> ". . . The vast repetitive operations are dulling the human mind . . . The aggregation of great wealth with its power to economic domination presents social and economic ills which we are constantly struggling to remedy."

And a former President of the United States stated:

> "American people from bitter experience have a rightful fear that great business units might be used to dominate our industrial life and by illegal and unethical practices destroy equality of opportunity."

The President was not L.B.J., J.F.K., Eisenhower, F.D.R. or H.S.T.; the Secretary of Commerce was not a radical populist. In fact, they were one and the same person, Herbert Hoover. He maneuvered beyond belief to keep that which belonged to the public out of the hands of private industry. Hoover's failure and shortcomings were economic in nature but even he gave up believing in the trickle-down theory. America's rural poor cannot afford policies that have been so disproved, nor can the Nation. Perhaps Congress and the President will take a lead from the Quaker from Iowa and attempt to exercise some friendly persuasion to render unto the people the land which is theirs. Instead of rereading their own warmed over press releases of the Neilson ratings, the President and his Cabinet would do well to read Hoover's "American Individualism."

In conclusion let me say that the single most important piece of legislation that can be helpful to the rural poor is the passage of title VI which I will describe in appendix I. In addition, I have included a proposal for an agricultural service corps, which is in appendix II. Thank you very much for your time.

Appendix I

LEGISLATIVE RECOMMENDATIONS

Generally, there are a whole range of legislative changes that Congress could enact. The Federal Government could: guarantee bank loans from private lending institutions; provide capital in the form of direct grants to individual farmers and low-income cooperatives; provide low-interest, revolving loan funds available to regional development banks; and establish a national strategy center which could provide technical assistance and training.

The main thrust would be to utilize the same kinds of financing and leveraging techniques that are utilized by private industry; but make these mechanisms accessible and responsive to low-income farmers and cooperatives. In addition it is critical to reform: the present tax laws, price support programs and other subsidies that favor the corporate agribusiness. Antitrust and antimonopoly laws will have to be enforced. The Reclamations Lands Authority Act and Family Farm Act should be passed.

However, I am going to focus my specific recommendations to one particular piece of legislation, Title VII—Community Economic Development of the Economic Opportunity Act. The purpose of the new "Title VII" (which was passed in the Senate last September by a vote of 47 to 12) is to both coordinate a number of the economic development programs previously included in the Economic Opportunity Act as well as to specifically provide access to existing programs of other Federal agencies for OEO-funded community development corporations (CDC's) and co-ops.

The new title is a substitute for the Special Impact Program which was originally co-sponsored by the late Senator Robert F. Kennedy and Senator Jacob Javits. As was indicated earlier, the Amendment stated forthrightly that communities have the right to control and to direct improvement of a whole variety of business and social opportunities. The community-owned corporation (and the co-op) was the key to the whole concept. Before passage of the Amendment last year, hearings were held which examined the performance of the CDC concept. I think it is important to the testimony that was made at that time.

In three days of hearings on economic development during the past session (March 25 and April 29 in Washington and June 11 in Bedford-Stuyvesant) the Senate Employment, Manpower and Poverty Subcommittee heard a good deal of testimony from community groups, economists and national organizations on the problems and strategies of alleviating poverty through economic development in urban ghettos and depressed rural communities. The subcommittee carefully considered the various approaches that were being tested, including "black capitalism," "minority entrepreneurship" and the CDC model. It was apparent from both the background report issued by the subcommittee and the remarks of Senators Javits and Ted Kennedy (the co-sponsors of the new Title) when they introduced the legislation, that if economic development projects were to be truly responsive to the problems of low-income and minority communities, that the mechanism offering the best opportunity for success is the community development corporation. Both Senators and the report reaffirmed the vitality and viability of the community economic development concept. Careful attention was also given to the specific legislative changes that had to be made in order to strengthen the potential of this program.

During the course of the testimony, individuals representing diverse community groups pointed out patterns of discrimination and/or administrative inflexibility, which lies at the root of the failure of other Federal agencies to offer the CDC's success to their programs. Those agencies singled out for criticism were: the Farmers Home Administration (FmHA) of the Department of Agriculture—which administered the Rural Loan Program (Title III–A of the EOA, 42 U.S.C. 2841–55); the Small Business Administration; the Economic Development Administration of the Department of Commerce and HUD.

The Community Economic Development Section contains three parts which attempt to comprehensively deal with the shortcomings of the prior legislation. They are:

Part A, which focuses more sharply on urban and rural community-based corporations. It emphasizes the cruical role played by federally supplied equity capital and mandates the cooperation of other Federal agencies in the growth of community development corporations.

Part B: Part B provides grants to rural cooperatives comprised of a majority of poor people. Such grants are essential to help launch rural cooperatives and thus help low-income farmers to utilize the kinds of resource concentration that are essential if they are to exist as independent farmers.

Part C: Part C provides technical assistance and long-term loan funds for urban and rural areas. It extends the existing $87 million title III–A rural loan revolving fund, which the administration has terminated, and provides for the eventual creation of a matching urban development loan fund. In conformity with other federally supported revolving funds, the interest on loans made by the fund can be used to defray administrative, technical assistance and supervisory costs of the fund rather than being paid to the Treasury. (A measure of the subcommittee's view of the importance of Title VII is the authorization recommendation of $60 million for fiscal 1972 and $120 million for fiscal 1973.)

A brief section-by-section analysis offers some further insights into the implications of substantive as well as administrative changes.

Section 711 legislatively recognizes the community development corporation as an entity. Section 713(a)(1) recognizes that CDC access to SBA's Small Business Investment Corporation (SBIC); Minority Enterprise Small Business Investment Corporation (MESBIC); and local Development Corporation (LDC) programs have been hindered by SBA's refusal to treat OEO grant funds in the hands of CDC's as the "private paid-in capital" necessary for eligibility. This section allows the CDC's to make maximum use of all leverage devices of programs offered by the SBA, especially the ones mentioned above, and provides that Title VII funds invested in SBIC's, MESBIC's or LDC's by CDC's are to be treated as, "private paid-in capital and paid-in surplus," combined "paid-in capital and paid-in surplus" and "paid-in capital."

In addition, it encourages CDC access to all other SBA programs, including the various direct loan and guarantee programs, the Lease Guarantee Program and the Section 8(a) subcontracting and procurement programs. In testimony before the subcommittee, it was pointed out that the SBA has, in a number of instances, refused either directly or indirectly, to make these programs available to CDC-initiated enterprises. Thus, in its report the subcommittee stated forthrightly "that CDC's offer one of the few opportunities to assist businesses in depressed urban and rural areas where there is the promise both of adequate capitalization, through combined utilization of OEO grants and SBA assistance, and substantial inputs of technical assistance at all levels—enterprise development, feasibility in marketing analyses, management and operations." Thus, in the committee's view, distinctions drawn by SBA which have the effect of excluding CDC's or imposing unrealistic obligations on them are ". . . unfortunate and reflect a view of free enterprise inconsistent with the need to devote resources to the problems of poor urban and rural communities." Accordingly, section 713(a)(2) is intended to result in the issuance of guidelines that will maximize the availability of SBA programs to CDC's receiving financial assistance under the Title VII program.

Section 713 (b) strengthens provisions of Title I-D, under which CDC areas be deemed "redevelopment areas," thus making them eligible for assistance from the Economic Development Administration (EDA). In the past, the EDA has insisted upon submission of an "overall economic development plan" (OEDP), the preparation of which is a long and expensive process. The Subcommittee viewed this as an unnecessary, duplicative impediment and specified that it be dropped. Accordingly, the section specifies that CDC's shall qualify for both the facilities grants (Title I) and the loans (Title II) available under the Public Works and Economic Development Act of 1965, as amended, and provides that CDC's shall be deemed to fulfill the overall economic development planning requirements of Section XII (b) (10) of that Act.

Section 713 (c) insures that CDC's will have access to the programs administered by HUD that provide support for low and moderate income housing and low cost land for development as follows:

Section 106 of the Housing and Urban Development Act of 1968, to insure that CDC's qualify as nonprofit sponsors and for the technical assistance and the seed money for planning and preconstruction costs available to such sponsors of low-income housing;

Sections 221, 235 and 236 of the National Housing Act of 1969, to insure that CDC's qualify for Federal subsidies to assist nonprofit sponsors of low and moderate income mortgage and rental housing programs;

Title I of the Housing Act of 1949, the Urban Renewal program, to insure that CDC's qualify to acquire low cost urban renewal land for development; and

Section 701 (h) (b) Housing Act of 195[illegible], to insure that CDC's will be considered as subcontractors by public agencies for demonstration programs in small urban area comprehensive planning.

Section 731 also provides for urban and rural development loan funds. In effect, Sub-section (c) (2) reinstitutes the current Title III-A loan program which has had nearly $87 million in assets and had been terminated by the Administration. The committee found that this loan program would be an invaluable resource for the development of rural areas and should be continued. Most testimonies elicited during the hearings indicated that the Farmers Home Administration which administered this program heretofore under a delegation of authority from OEO had simply done a terrible job and in point of fact several witnesses stated flatly that FmHA did not view low-income farmers or low income farm cooperatives as a suitable client constituency. Therefore the new legislation calls for a more effective rural economic development program administered by OEO which will provide grants, loans and adequate technical assistance to both small farmers and rural cooperatives.

The rural fund would start with a minimum of $27 million and the urban fund will be initiated when more than $60 million is appropriated for Title VII. The section also provides for a much more ambitious technical assistance and training program as well as for experimental research and development programs.

In summary, it should be said that the new legislation goes a long way toward plugging many of the administrative loopholes that existed under the old I-D legislation. In doing so, it resolves certain problems that have consistently impeded the capacity and growth of the CDC's. Some of these issues that I have mentioned above, such as the recapturing of the Rural Loan Program, the opening of access to supplementary programs offered by other agencies, and the acceptance of government funds as "paid-in capital" for LDC's, MESBICS and SBIC's will go a long way toward strengthening the delivery system of CDC's.

Additional issues that are resolved are: that the director of OEO cannot delegate any programs to other agencies; the assets of CDC's are the property of CDC's; and that the director has the authority to waive 10% non-federal share without the necessity for promulgating regulations. These too will be useful.

In conclusion, it should be pointed out that there are some basic problems with this legislation. The first and foremost is that it was vetoed by the President on December 9, 1971. Although he focused his attack on the Child Development Amendment, the President also emphasized his strong opposition to "categorical programs" which includes the Community Economic Development Title. There are very strong indications that both the House and Senate Committees will reintroduce a new bill, with Title VII included, in January. It deserves your full support and should be passed. Another example is money! The Conference Committee will have the opportunity to specify an authorization figure and it is obvious that the success of several of the above-mentioned programs are going to require increased authorization. (For example, in order for OEO to assume the administration of the new rural development it must establish a totally new delivery system which will be costly.)

Appendix II

PROPOSAL FOR AN AGRICULTURAL SERVICE CORPS ("ASC")

I. WHO WOULD BE SERVED?

Agricultural marketing and supply cooperatives comprised in major part of low and lower middle income farmers.

II. WHY IS IT NECESSARY?

The Extension Service operation has largely functioned as a vassal of the corporate (agri-business) farming interests. It has done little or nothing for the small farmers. The Extension Service-corporate farm relationship is now so institutionalized and intractable that it is almost impossible to make it responsive to small farmers. The same could be said for the DofA. and the Farmers Home Administration.

III. PURPOSE

1. To provide high quality expertise to such co-ops in respect of planting, cultivating, harvesting, processing, marketing, accounting, etc.
2. To begin to close the technological gap between the corporate farming operation and small farmer co-ops.
3. To establish an educational and research center to deal with problems facing small farmer co-ops. Special problems would be investigated; *i.e.*, which crops are suitable for such operation (e.g., strawberries); and special processing, marketing, and management problems, etc. (It is not inconceivable to deal with other related problems such as rural housing, health, manpower training, education and consumerism.)

IV. WHAT IS THE MODEL FOR THE CORPS?

The Reginald Heber Smith Fellowship Program. (This program is different from VISTA in that ASC will pay a "real" wage [e.g., 10,000/yr. for new graduates]).

V. WHO WILL PARTICIPATE?

Qualified and motivated graduates from the agricultural schools of universities.

VI. UNDER WHICH AGENCY?

O.E.O., which has been the most responsive to the needs of the rural poor. Or contract with a university (like the Reggie Program contracts with Howard).

Senator STEVENSON. You have been something less than enthusiastic about civil servants and the President's governmental policies.

I might say title VII has been reintroduced as part of a new OEO extension bill. Beyond title VII, what kind of policies would you be enthusiastic about? Could you just tell us, concisely, about your strategies for rural America?

Mr. BLAUSTEIN. If I may first answer one question Senator Taft raised earlier with regard to the Bank of America loans to low-income or minority individuals. The bank does not have to be afraid of stockholder suits because 70 percent of their loans are guaranteed by the Small Business Administration and the other 30 percent are guaranteed by the——

Senator TAFT. Let's have that again?

Mr. BLAUSTEIN. Seventy percent of the loans are guaranteed by the Small Business Administration.

Senator TAFT. Total authorization of the Small Business Administration——

Mr. BLAUSTEIN. Sir, 70 percent of the low-income, minority loans made by the Bank of America are guaranteed——

Senator TAFT. How do you arrive at the classification? I have no ax to grind one way or the other.

Mr. BLAUSTEIN. That is the average at this SBA office and one need only check the local SBA office. Seventy percent are guaranteed, and the other 30 percent of their loans—

Senator TAFT. How many are they making?

Mr. BLAUSTEIN. They are not making very many. But the other 30 percent is guaranteed by the California State Job Development Co., so they are not taking one penny's risks with regard to loans to low-income or minority borrowers.

Senator **Taft**. That wasn't the question that was raised as I recall, but it is interesting to hear.

Mr. **Blaustein**. I am sorry, sir.

To get back to Senator Stevenson's question regarding civil servants and the President's governmental policies. What I have related to you is not only my own interpretation but the responses which I hear every day from community leaders, attorneys, and business experts who are working with low-income groups.

With regard to the other part of Senator Stevenson's question, I think that it is a long and difficult row to hoe. I believe title VII represents a very important step forward in many ways. In the title there is a legislative mandate to coordinate rural loans; as a matter of fact, it transfers the administration of the old title III rural loan program that the Farmers Home Administration inadequately dealt with and returns it to a special loan fund assumedly to be run by OEO. It also provides for technical assistance funds for rural low-income co-ops. There is very little technical assistance available presently. It additionally provides for a research and strategy center. It represents an opportunity to reverse past priorities.

It was asked, What are the universities doing? Very little is being done at most universities to help the minority farmer or the small co-op, especially in the South. Most of the research that is government subsidized is for the institutional, large agribusiness. In the new title VII it specifically authorizes the establishment of an economic development strategy center for the rural poor of America which will examine new strategies for low-income and small co-ops. In a sense, I would say that right now the most vital, single legislative initiative that can be taken is passage of title VII. It will go a long way to eliminate many of the difficulties that I have pointed out.

Senator **Stevenson**. Senator Taft.

Senator **Taft**. I don't think I have any further questions of Mr. Blaustein.

I apologize for not being here during your entire testimony, but I will read it, and I apologize also, along with the chairman, for the fact that we didn't have more time to consider your statements here.

I am sorry your health has been poor and I wish you an early recovery, and I wonder when you will venture into the political scene yourself?

Mr. **Blaustein**. I tend to doubt that it will happen in the near future. I suspect that I will continue to work on behalf of the community development corporations and for low-income rural co-ops.

Thank you very much.

Senator **Stevenson**. Thank you very much, Mr. Blaustein. The next witness is Mr. Peter Barnes, west coast editor of The New Republic.

Mr. **Blaustein**. Thank you very much.

(The prepared statement of Arthur Blaustein follows:)

Testimony of Arthur Blaustein
before the Senate Subcommittee on Migratory Labor
January 13, 1972

Mr. Chairman, in my testimony today I would like to address my remarks to four general problem areas that effect the rural poor, and, in particular, the migrant laborer and his family. Others have offered testimony on more specific issues such as concentration of land ownership, water use or population distribution.

The subject areas that I want to cover are much broader and complex; and therefore do not lend themselves to simple explanation or description--to the use of charts, curves and figures--nor to easy solutions. They have to do with attitudes, structures, assumptions and theories.

The first has to do with the inter-relationship between economic and political power and more important how this power is wielded to influence, control and subjugate low-income and minority groups. The problem is manifest, economic development and jobs are an important part of the equation but political influence is, above all, critical to the solution. Too often these issues are analyzed separately but, in the real world, they are very much interdependent. The gut of this critical issue is the aspect of community control; of individuals participating in decisions that affect their own lives.

Existing policies are next to useless. Worse than that, in many cases the programs that are offered either waste our human resources or despoil our natural resources. They certainly do not contain the dimension that allows for social or economic change for rural low-income families.

The "welfare/mobility" strategy is working. The so-called "growth center" strategy is simply one of "borrowing from Peter instead of Paul." It makes very little sense in practical terms. The President has decided to drop the Title III-A loan program run by FmHA--which totally disregarded the intent of Congressional legislation. Local politicians and bureaucrats are owned by large agricultural conglomerates. We have nowhere to go but up; unless the bottom falls out totally.

At the beginning I want to make it clear that I strongly believe that a coherent policy of economic development is the most sensible and viable strategy for alleviating poverty in rural America. I suggest that the best way to achieve this goal is to offer an opportunity to poor rural people to own and run their own farms and to establish and own cooperatives--thereby enabling them to earn a decent living for themselves rather than be forced to choose between migration to the urban slums and a life of welfare and/or (colonial) dependency. I do not feel that it is an understatement to say that the present pyramid of corporate subsidies, government, quasi-regulation, bureaucratic insensitivity and legislative indifference is designed to keep people in human bondage. The circumstances and conditions which I have described, whether by deliberate plan or not, have been imposed on rural American in a piecemeal fashion with practically no thought to overall policy nor to the plight of human beings or to the environment. Furthermore, although I have only read it briefly, the new Act proposed by Senator Humphrey and others will not resolve the aforementioned problems: it will perpetuate the faults of an inadequate system--that is, except for corporations.

With regard to political implications, let me quote to you the following example:

Coca Cola's treatment of migrant workers presents a perfect lesson. In 1960 Coca Cola bought Minute Maid orange juice and became one of the largest employers of migrant workers in Florida. At the time of the purchase in 1960, Coca Cola executives must surely have known of the exploitation of the migrant worker in the Minute Maid operations--the labor situation is a crucial component of any feasibility study preliminary to purchase of a major corporation. For 10 years Coca Cola took no action to reform its policies towards the migrants. Now it is beginning to implement some reforms, but only after the activities of Cesar Chavez came to the attention of the president of Coca Cola, only after a television documentary and congressional hearings embarrassed the corporation. In short, only after Coca Cola's actions were treated as the political acts of a firm not exactly fighting for competitive survival.[1]

The second area that I will address my remarks to is bureaucratic indifference. Thirdly, I will attempt to evaluate the impact of existing federal programs by citing the examples of policies of those agencies which are specifically responsible for economic development. Finally, I will attempt to offer an analysis of the "trickle-down" theory and suggest specific legislative recommendations for alternate means and mechanisms for delivering services, resources and subsidies to poor rural communities and individuals.

The problems that I mentioned cannot be outlined separately. Hopefully, my remarks will weave the four issues into some sort of harmonious theme.

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[1] Philip W. Moore, "What's Good for the Country is Good for G.M.," page 17.

Most county, state and federal agencies are like the Empire State Building without elevators. Somewhere up on top is the administrative apparatus, the public is in the basement, and in between is a vast air space occupied by the bureaucrat. The consequence of this three-tiered arrangement is that the unaffiliated citizen lives in nearly total bewilderment about his government and, on their side, the administrative officials work in general ignorance of what their own bureaucracies are doing to the citizen. A different style of frustration lies in wait for the citizen who thinks he can accomplish something by interrogating public officials at public meetings. An individual who tangles with the head of a bureaucracy will find himself fighting out of his class; any commissioner will tell the citizen that the citizen is "not in possession of all the facts." The common thread that stitches all the official responses together is their irrelevance to the questions. Such confrontations give the bystander the feeling of traveling through one of those amusement-park concessions where iron bars turn out to be rubber and where mirrors make a man seem seven feet tall or seven inches short. The citizen might try to barge into the bureaucratic establishment and demand an audience, but that is tantamount to wandering through a pitch-black cave, full of hollow voices telling the citizen he has the wrong department. It's a page out of Plato's "Myth of the Caves."[1]

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[1] An interview with Joseph P. Lyford, "The Establishment and All That," The Center Magazine, September, 1968.

Seventy years ago when government was really corrupt, public employment was divided along a 2 to 1 ratio. For every 100 real persons who put in a day's work, there were 50 ghosts who were carried on the payroll. In snow, sleet, slide, hurricane, famine, fire, riot or grand jury investigation, the real ones had to show up. One journalist recently recalled the plight of one city that was facing an annual crisis. It could have been any of the above but in this case it happened to be a transportation problem (it happens once every two years like clockwork).

The mayor made the tactical blunder of issuing an appeal to every public servant, asking them to stay home unless they felt their job was essential to the public good. It was reported that between 80 and 90 per cent stayed home. Assuredly, it was not a safe choice to offer to local civil servants. The conclusion being that since the post-reform days of "bossism," and "county court house" rule, the merit system has elevated the no-show proportion (33 per cent) substantially.

This having been said, we can now proceed to the more serious business of analyzing the policies and efforts (administrative and bureaucratic) of those federal agencies which are responsible for providing grants and guidelines, programs and priorities for low-income and minority groups in rural areas, especially in the areas of: manpower training; employment; and economic and business development.

Economic Development Administration

The Economic Development Administration (EDA), as you know, is an agency of the U.S. Department of Commerce, established in 1965 to encourage economic development in certain "lagging communities" throughout the country. In order to attract private industry to locate in these communities, EDA has various programs designed to "sweeten the pot" for private investment.

In its effort to stimulate industrial growth in areas with high unemployment or low family incomes, the agency has created local corporations for the dispersal and management of funds.

Among other inducements, EDA can offer public works grants and loans, direct business loans, and can give technical assistance grants. They have tended to concentrate in small towns and rural areas as well as making substantial business-loans, (the fiscal 1969 average loan being $1,004,000). Most usually, they have referred smaller borrowers to the SBA and private sources. EDA has also given support to other government agencies and has generally participated in projects when supplementary funding is available from other federal agencies.

Although EDA has concentrated upon rural areas they have more recently been involved in establishing several major urban projects, including ones in Los Angeles (Watts) and Oakland, California; in the "stockyards" of Chicago; and in Brooklyn, New York at the old Navy yard. I refer to urban areas because that is where pump-priming and trickle-down has been considered most successful. If you plan to create an economic model for rural American, does it not make sense to examine the track record of the model you are claiming success for?

After the [illegible] Riots in 1966, industry was reluctant to move into the area. EDA underwrote a technical assistance study to determine the economic feasibility of development, and concluded that the area could, under normal circumstances, be a natural center for industrial development. Watts was well-served by utilities and transportation, and has a large supply of under-utilized industrial and commercial land. Watts also has a strong industrial market, and a large labor pool available for diverse industrial jobs.

EDA proposed that a Local Development Corporation be created with establishment business and financial leaders from the Los Angeles area, both black and white to administer the development. EDA stipulated that the LDC be independent of any local community groups, and that community participation be kept to a minimum. The agency rationalization was that business acumen was more important to community development than was "relating to the community." Various community groups felt otherwise and suggested that the whole project was another shuck; i.e. to help major corporations and improve the status of a handful of negroes who "were on the make". From its inception most community groups felt left out in the cold.

Thus, Watts Economic Resources Corporation (ERC) was formed in June, 1968, with nine LA trustees, and was empowered to buy and sell land, machinery, buildings and equipment; to borrow money; and to guarantee third-party loans. EDA arranged for an OEO grant of $3.8 million to the project, which EDA matched, for programs subject to EDA approval.

Watts' ERC has since created a 45 acre Watts Industrial Park, with EDA approval. Lockheed Aircraft agreed to be the first major tenant, and promised to provide jobs and training for the unemployed. It is generally agreed that the project was not a success. Lockheed seems to have a poor track record for delivering on promises. To most qualified experts the project has been an unqualified failure.

The City of Oakland was designated as an EDA target area in 1965 because of persistant unemployment. EDA sponsored an inter-agency "task force" in Oakland--with the participation of Small Business Administration, Departments of Housing and Urban Development, Health, Labor, and OEO--charged with the responsibility of developing a coordinated federal and local strategy to help poor people. Since Oakland's problems were so critical, EDA established a program to reverse the unemployment trend in 4 areas within the city, before the "task force" had completed its strategy. In addition, EDA committed funds for public works loans and grants, business loans and technical assistance ; including a 13 million grant to World Airways, which promised to train minority individuals.

The Oakland project can best be summed up in the words of journalist Murray Kempton in an article "Land of Dreams--Oakland, California". He said:

> The salvation of Oakland, like so many great undertakings in America, is rather going to be done.
>
> Its disaster is the one common to cities: In the last 10 years its overall population has declined 5 per cent, and its Negro population has increased 73 per cent. It is a city of considerable amenity. Only 15 per cent of its housing units are substandard.
>
> Oakland is also a tight union town, and the Labor Dept. estimates that one-third of its labor force is unable to earn a decent living.
>
> It is ridiculous to quarrel over whose fault this is, although the city and the special federal team which has been sent in to repair the damage seem to have spent a good deal of time quarreling about almost nothing else. . . .
>
> Oakland strives for its reclamation pretty much as Americans . . . always do--by building edifices for the wonderment of non-residents. Its port commission has a higher budget than the entire city government. The 30 per cent of the white population which has moved out in the last 10 years kept its construction union cards in Oakland, of course; the federal government has a rule of thumb that 58 per cent of the wages paid on its Oakland construction projects go to people who live outside of Oakland.
>
> The city is, of course, concerned about its poor and not just because nowadays it isn't easy to get federal money without attaching a rider certifying that somewhere in the plans there's a little grease for the hard core.
>
> The government will shortly grant $11,000,000 to World Airways to expand the local airport. The president of World Airways was listed recently as in the $100,000,000 class, which would suggest that he might be able to find $13,000,000 around the money market somewhere; but the government came rushing to his relief because he promised that his new facility would train and hire Oakland Negroes.[1]

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[1] Murray Kempton, "Land of Dreams," New York Post, May 14, 1967.

*The actual sum was $10,650,000 (60% in grant monies and 40% in loans at an interest rate of 3 3/4% over 40 years).

Eugene Foley, then Director of EDA, seemingly satisfied with the agency's effort, said, after the commitments in Oakland:

> We need bold and imaginative action in each ghetto and we offer inducements to obtain it. If we can devise schemes for a legitimate profit to be made in the ghetto then we will see the vast economic and talent resources of American business begin to apply themselves to the solution of urban problems.[1]

One source in Oakland, a leader of a community group, indicated that at last count 14 individuals--hard-core blacks--had been trained. Now, private industry really ought to be able to do better than nearly a million dollars per black trainee. The pump-priming inducements that Foley felt were so conducive to "bold and imaginative action" were,to say the least, generous; the trickle-down aspect so embarassing that any federal official, economist, manpower expert, private industry spokesman should be totally ashamed to even refer to the theory.

The Brooklyn Navy yard project has been a failure in terms of manpower training, employment and business standards.

Another rather famous EDA project was its funding of Walt Disney's Mineral King project. Another "hard-core" company, Disney's assets were listed as $267.6 million as of October, 1970.[2]

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[1] Eugene P. Foley, The Achieving Ghetto (Washington, D.C.: The National Press, Inc., 1968).

[2] Jerry Carroll, Big Mickey Mouse Law Suite, San Francisco Chronicle (Jan. 8, 1972), p. 4.

This project--a ski resort--was billed as a means to help the rural poor of Calif. by stimulating economic activity and jobs.

The Mineral King project is not only a typical gesture of EDA's coziness in subsidizing big business or political friends of the administration, but it is a symbol of the federal bureaucracy's indifference to America's environment and ecology. Walt Disney Productions had been granted permission from the U.S. Forest Service to despoil an untouched part of the Sierra Valley, surrounded on three sides by the Sequoia National Park. The distinct financial advantage was that the resort's location was approximately halfway between Los Angeles and San Francisco.

At the center of controversy over Disney Production's attempt to rape the Mineral King area, one of the most beautiful in the West was: the right of the Forest Service to license these kinds of projects without holding public hearings; the propriety of the government to lease large tracts of national forest land to private profit-making resort speculators; and the decision to put a highway across a national park to give subsidized access to a corporate speculator. The Sierra Club has challenged the Mineral King plan and it is expected that the final decision will be made by the Supreme Court in early 1972. The groundwork for federal participation through EDA was laid back in 1966 and 1967.

Originally, Interior Secretary Udall was opposed to the plan which would run the road across Sequoia National Park. One article cited the fact that:

> California's highway engineer J. C. Womack said the Mineral King road could be built only "at the expense of other critical (road-building) projects." He added that the use of funds set aside for other road-building projects would be ". . . very disruptive to previously approved planning and scheduling of projects in the Southern Counties" of California.[1]

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[1] Roger Rapoport, "Disney's War Against the Wilderness," Ramparts, November, 1971.

The deal that was reportedly arranged between Governor Ronald Reagan (it was reputed that Disney had contributed heavily to his '66 gubernatorial campaign) and the feds was that the Democratic administration issue a permit *and funds* to allow for construction of the road while Reagan would assure that the feds would receive the necessary acreage to establish the Redwood National Park.[1] The permit was finally issued in 1967 and EDA came across with 3 million bucks for the California Highway Commission on the grounds that the Mineral King "winter wonderland" resort was essential to the state's economy--and would ultimately help poor folk. From ski slope to trickle-down, the poor and unemployed of California were snowed-under once again.

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[1] Rapoport, *op. cit.*

Office of Economic Opportunity

The War on Poverty was officially launched by the creation of the Office of Economic Opportunity (OEO) which was the major handiwork of the 1964 Economic Opportunity Act.

In its effort to alleviate the poverty of millions of Americans--urban and rural--black, white, Mexican-American, Puerto Rican and Indian--OEO was given program responsibility in wide variety of areas which included: manpower, housing, health, legal aid, education, etc.

> . . . which provided services, assistance and other activities . . . to give promise of progress toward elimination of poverty or a cause or causes of poverty through developing employment opportunities, improving human performance, motivation, and productivity, or bettering the conditions under which people live, learn, and work; . . .[1]

Some of its better-known programs were Vista, Headstart, Legal Services, Upward Bound, the Job Corps, the Neighborhood Youth Corps, and Foster Grandparents, among others. But at the gut of the entire anti-poverty effort was the Community Action Program which was designed to give low-income Americans an opportunity to identify, design, plan and initiate their own priorities and emphases in over 1,000 communities across the nation.

> . . . which developed, continued, and administered with the maximum feasible participation of residents of the areas and members of the groups served; . . .[2]

Toward this end, OEO-funded Community Action Agencies (CAA's) were designated as local-initiative programs. They were given demonstration grants and "required" to maintain a measure of community control in their planning.

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[1] Section 202A, Title II, Economic Opportunity Act of 1964.

[2] Ibid.

> . . . which is conducted, administered, or coordinated by a public or private non-profit agency. . . .[3]

In succeeding amendments to the Act, the Congress cut the heart out of community action and all but eliminated local initiative. In addition by acts of Congress and decisions by the White House some of OEO's most effective programs were "spun-off" or transferred administratively to old-line agencies (such as HEW, BIA, SBA, HUD and Labor) and state and local agencies,where it was assured that their effectiveness would be severely diminished. Such was the fate of Head Start, Neighborhood Youth Corps and the Job Corps among others. While the political base and programmatic effectiveness of OEO was being reduced, however, the 1966 and 1967 amendments to the Economic Opportunity Act upgraded OEO's role in the area of economic development. It gave the agency authority to establish "Special Impact" programs in selected low-income communities.

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[3] Economic Opportunity Act, op. cit.

The Title I-D amendment to the Economic Opportunity Act (co-sponsored by the late Robert F. Kennedy and Jacob K. Javits) of 1967 stated forthrightly that communities have the right to control and to direct the improvement of a whole variety of business and social opportunities. The community-owned corporation was the key to the whole concept. As Robert Kennedy said in December 1966:

> "The measure of the success of this or any program will be the extent to which it helps the ghetto to become a community--a functioning unit, its people acting together on matters of mutual concern, with the power and the resources to affect the conditions of their own lives. Therefore, the heart of the program, I believe, should be the creation of community development corporations (CDC's) which would carry out the work of construction, the hiring and training of workers, the provision of service, the encouragement of associated enterprises---The community development corporations...would find a fruitful partnership with American industry.. A...critical element in the structure, financial and otherwise, of these corporations should be the full and dominant participation by the residents of the community concerned...through CDC's, residents of the ghettos could at once contribute to the betterment of their immediate conditions, and build a base for full participation in the economy--in the ownership and the savings and the self-sufficiency which the more fortunate in our Nation already take for granted."

In brief, the CDC concept embraces the central principle that a hub corporation, usually non-profit, is organized by community (i.e., poor or minority) representatives to acquire outside resources such as venture capital, short and long term loans, and technical assistance, etc., in order to develop the economic, human and physical resources of the community. The hub corporation then, either invests in or makes loans to a variety of subsidiary for-profit corporations or cooperatives--each one accruing concrete benefits for the poor community--through flexible policies of financial support which are geared to the specific needs of the particular enterprise. Usually the CDC retains virtually complete control of the subsidiary corporation throughout the start-up period; many, however, plan to make stock in subsidiary corporations available at very low cost to employees and residents of the communities in which they operate, and a number intend that majority control will eventually be in the hands of the workers and residents. Although there are variations among the different programs (no two CDC's are exactly alike--as no two communities are alike) and each project reflects specific local needs, the organizational structures are basically similar in design and scope.

In 1967, the $25 million obligated to the Special Impact Program was administered through the Department of Labor. In fiscal year 1968, $20 million was obligated with the money being divided between four agencies--OEO, 2 million; Labor, 11.5 million; Agriculture, 2.7 million and EDA, 3.8 million. In 1969, again 20 million was made available with 11.4 going to OEO and 8.6 to Labor. In 1970, 36 million went to OEO. The reasons for finally placing control of the program in OEO are many but two seem to be overriding: In January of 1969 the Westinghouse Learning Corporation delivered its first evaluation report covering the fiscal year 1968 projects. The report pointed out that there were many operational problems with the Department of Labor projects. It also concluded that the Agriculture and Commerce projects involved only limited economic development and did not meet the pricipal requirement of the Act: the establishment of programs directed toward the development of entrepreneurial and managerial skills and the participation of the target population in ownership of business ventures. Only the Hough Project (Cleveland) was found to be addressing itself to the comprehensive nature of the intent of Title I-D. Partly on the basis of that report and partly because of the growing interest in the idea reflected in the OEO model, the decision was made by the Bureau of the Budget to have OEO administer the entire I-D program in fiscal year 1970. In that year OEO refunded nine existing CDC's and funded for the first time 23 new Special Impact grantees. By June of 1971 OEO had funded with operational monies (venture capital) 18 urban and 19 rural CDC's; an additional five CDC's received planning funds.

A CDC is essentially a cooperative, set up in a neighborhood to run economic and social service programs for the community. Its main activity at the moment is operating business or profit-making ventures for the community. Some have set up factories or shopping centers. Others run maintenance services, cattle feeder lots, fish co-ops, catfish farms, wood-work and toy co-ops, strawberry producer co-ops or stores. Other community development corporations operate local services, as well as perform municipal services under contract from local government. The community development corporation can be set up by civic groups and churches, by a Model Cities Board or poverty program Community Action Agency, or by any group of individual residents of that community. It really merits the title of community development corporation, however, if any community member may join.

In prinicple, this inclusiveness distinguishes the community development corporation from ordinary private businesses, such as those mentioned in programs for minority business enterprise, as well as from branches of large corporations in poor neighborhoods. In these ordinary private businesses, a limited group of individual owners or partners or shareholders run the corporation, and receive the profits for their own private use. In a community development corporation, the profits accrue to the community, and the community decides what to do with them.

Community development corporations, thus, are a possible form of organization for a community that has economic, social, or political needs, and is interested in working out new ways for its members to cooperate with each other in meeting them.

Initially, most of the CDC's that had been started were in economically-lepressed black and Chicano urban neighborhoods, but more recently CDC's ave been established in rural Indian, Chicano, and white communities as ell as urban Chicano and low-income white neighborhoods.[1]

Small Business Administration

Since its inception, the SBA--known in minority communities as STOP BLACK ADVANCEMENT--had a reputation for being a bureaucracy that was generally unresponsive, if not specifically hostile to the needs of minority individuals and groups. SBA officials by and large had a small town white merchants' viewpoint which definitely did not include providing any kind of competitive advantage to Blacks and Mexican-Americans.

There are several SBA programs which, though extremely useful, had been almost exclusively directed toward assisting white businessmen. Information and access had been systematically denied to minority entrepreneurs. For example, the SBA was authorized to loan up to $350,000 for up to 15 years at 5-5/8% maximum interest, for construction, expansion or modification of small business facilities. In addition, SBA was recalcitrant in offering participation to minority business ventures by guaranteeing bank loans for applicants who could not meet commercial collateral requirements. The SBA had the power to guarantee up to $350,000 or 90% of a commercial loan, whichever is less, and could also directly participate with up to $150,000. Generally, applicants would go directly to the SBA, which then would pass the information on to a commercial bank for approval and loan at a locally allowable interest rate.*

Two other SBA "brick and mortar" capital programs could also have been of value to small minority entrepreneurs. They were the Economic Development Loans (EDLs) and the Small Business Investment Corporation Loans (SBIC) programs. Again information had been withheld from minority businessmen.

Economic Development Loans are indirect loans, intended to help small firms acquire and build new facilities or to expand or modernize. This was accomplished through State Development companies or through Local Development companies (LDCs), which then disperse funds to small businesses.

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*One example of the kinds of bureaucratic game-playing that occurred involved a minority contractor, an SBA regional office and one of the country's largest banks. The processing of the black contractors application was held up for six weeks while the SBA office and the bank's loan department exchanged five letters in a jurisdictional dispute as to *who* should type the form.

State development companies may be financed up to the amount of other outstanding notes, for up to 25 years at 5-1/2 interest. The state companies may then loan money for equity capital or for long-term debt financing to small firms.

LDCs could be profit or non-profit and could receive almost unlimited loans. These funds would then be dispersed to establish industrial parks, conduct urban renewal, or to give aid to small businesses. LDCs--as a legal entity--must be formed by at least 25 citizens, and are thus subject to some degree of community control.

SBICs are profit-making associations, which may be licensed by the SBA to supply funds to small businesses. SBICs may make available loans for venture capital, long-term financing, or management assistance. No community representation is required on SBICs.

In general, private financing must supplement government funding of SBICs in a ratio of 3/2. The SBA could loan up to $7-1/2 million to an SBIC, and the initial private investment would run from $150,000 to $1 million, depending upon the area. These requirements obviously limit the value of this program to minority entrepreneurs, who are unlikely to have large private sources of capital, and who were not permitted to use funds from other federal agencies as "paid in capital".

To those who can qualify, a major advantage of the program is its liberal terms. There is a minimum financing period of 5 years, but there is no maximum term. Additional borrowing power is available, up to $10 million, for SBICs with sufficient capital. There are currently (in late '68) around 400 SBICs in the U.S., with private investments of over $300 million.

S.B.A. was not designed to serve the rural poor.

The efforts of the Bureau of Indian Affairs have, on the whole, been consistently bad. The attitude of the agency's bureaucrats generally is that of protecting the stockade rather than of acting as advocates on behalf of the Indian tribes they are paid to serve. More specifically, the practice of giving licenses to "white traders" on the reservation is comparable to the company store in a corporation town in the 1880's. The traders, for the most part, are allowed to mark-up their goods at considerable profit. In addition, on many reservations they own the only gas station, have the only telephone and in certain instances, run the post office. If there is a dispute over monies-owed to the store, some traders have been known to open envelopes containing federal checks to individual Indians. The circumstances and conditions are much like, if not worse than in human bondage.

Furthermore, the BIA and the Farmers Home Administration (FmHA) have systematically discouraged and prevented Indian groups from establishing their own co-ops, on the reservation, to compete with the white trader.

With regard to rural economic development programs sponsored by the federal government, low-income and minority groups have fared much worse than their urban brethren. Most federal efforts are clearly stacked in favor of the wealthy farmer or the corporate "agri-business." The concentration of wealth in the hands of a small number of rich farmers and corporations, as well as vertical conglomerates, is the Department of Agriculture (DofA) "official policy" that is accepted and encouraged. This, of course, is done at the expense of the poor and minority individual farmer as well as those seeking to establish low-income cooperatives. The State of California FmHA, located in Berkeley, has never funded a low-income co-op in the state.

In testimony before the Senate Sub-Committee on Employment, Manpower and Poverty in August of 1968, an article which appeared in Fortune magazine by Roger Beardwood, was read into The Congressional Record[1]. It offers some excellent insights into both the plight of the rural poor and the institutional power—political economic and bureaucratic—that is exercised to perpetuate these tragic circumstances and conditions. Beardwood wrote that:

> Big farmers in the South not only make decisions that leave hired hands and sharecroppers jobless, homeless, and penniless. They also have a powerful voice in the formulation and execution of farm policies and programs that vitally effect the survival of independent Negro small farmers. In 1950 some 492,000 Negroes in the South were classified as farm proprietors and managers; by 1960 only 167,000 remained in that category. There are fewer now, and if the trend continues unabated, almost none will be left by 1975. Many of these small farmers and their families could be helped to stay on the land for at least another generation. But three things are against them: their farms are very small, they lack the money to mechanize, and they do not have a Washington lobby.
>
> The big farmers' Control over small farmers' destinies rests on two facts of political life. First, the key agricultural committees in Congress are largely controlled by the Southerners; some of them, like Senator James Eastland of Mississippi, are farmers themselves. Second, the most important Agriculture Department programs are administered by state and county groups that are dominated by whites. The black farmer is helped where the administration is fair and unprejudiced, and hindered where it is not.
>
> The Negro farmer's troubles frequently start with the Agricultural Stabilization and Conservation Service. The A.S.C.S. is at the very heart of the farm program, that complicated structure which supports prices, sets production and marketing quotas, conserves land by taking it out of intensive cultivation, and allots the number of acres on which farmers may grow crops such as cotton, tobacco, and corn.
>
> By its very nature, the A.S.C.S. system works best for large farmers. For the land on which they do not grow crops, farmers are compensated according to their past production; large farmers have usually had a higher crop yield per acre than small farmers. Moreover, large farmers can take out of production their least fertile land; small farmers do not have that margin. And on the land they do continue to cultivate, large farmers can continue to increase income by using modern technology. Small farmers, in contrast, lack the capital and knowledge to mechanize, irrigate, or use the latest pesticides.

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[1] Congressional Record, Washington, August 2, 1968, Vol. 114, No. 137

Theoretically, the A.S.C.S. is highly democratic, operating through a pyramid of state and local groups. At the top is the state committee, appointed by the Secretary of Agriculture after consultation with farm organizations, state directors of agriculture, deans of agricultural colleges, and political leaders. Under the state committees are three-man county committees that are elected by community committees chosen by farmers themselves.

But Negroes sit on only five southern A.S.C.S. state committees. And there are only 454 Negroes among the 37,000 community-committee members. Most important, no Negro sits on any county committee (four have been elected as alternate members). And it is these all-white county groups that hire the A.S.C.S. staff that administers the federal program. This year only 310 Negroes had permanent full-time jobs in 2,892 county offices in the entire nation, and no office had a Negro manager.

. . . . .

Many small Negro famers would do far better if they stopped growing cotton, corn, tobacco, and other crops in the allotment system. By concentrating on such other crops as cucumbers, squash, cabbage, and sweet potatoes, which are outside the quota system, they could cultivate all of their land instead of only part of it. Moreover, since the production of such crops has not yet been heavily mechanized, the small farmer could compete with his larger neighbors.

The Cooperative Extention Service is supposed to help farmers to make changes of this kind by advising them on which crops to grow, on cultivation methods, and on farm management. But the familiar southern pattern of separate but unequal facilities depreciates the Extension Service's value to Negro farmers. Until 1964 the service was completely segregated; the Negro extension staff worked out of separate offices. (Some of them lacked even a typewriter.) Now the formerly separate staffs have been merged; but many Negroes are still paid less than whites doing comparable work, and in only two counties do Negroes head the Extension Service. A number of white supervisors are less qualified than, and junior in service to, their Negro subordinates.

Furthermore the Extension Service lacks both vigor and imagination. Extension workers generally give advice only to those people who ask for it--although some of the people in greatest need, those living in remote areas, are unlikely to ask for it because they do not know it is available, or because they seldom go to the county seat and cannot write a letter. The service has also failed to encourage enough people to grow their own food. For generations, agricultural experts have urged farmers to buy less food at the store, and grow more on their own land. But in many parts of the rural South, most poor homes, black and white, have no vegetable gardens, partly because landowners have a vested interest in forcing workers and sharecroppers to buy at the company store; thus they insist that their people grow cotton and tobacco right up to the front door of their shack.

A third branch of the Agriculture Department on which black farmers should be able to lean is the Farmers Home Administration: it is empowered to lend small farmers money to build or improve their homes, buy or enlarge farms, but machinery, start businesses that will increase nonfarm income, finance the raising and marketing of crops, and make loans to farmers' cooperatives. To obtain help, a farmer must be small--but not too poor. He has to convince the local office--staffed by federal employees--that he needs money for a good reason. Then a county committee of three must certify that he cannot get the money through commercial channels, but is nevertheless a good credit risk.

. . . .

In the last several years there has been a slow, minimal improvement in the administration of Agriculture Department programs, brought about by pressure from the civil-rights groups, a firmer federal policy, and by Negro farmers themselves. Burke County, Georgia, is one of many places where the pressures are rising. The A.S.C.S. office is a small, red-brick building in the county seat of Waynesboro. Recently, while three Negro farmers waited to talk about crop allotments, the acting manager, Frank S. Cates, described things as he saw them. "I'll admit the small farmer is more vulnerable than the big one," he said, "but these minority people who live in these shacks don't want to work. They'd rather go off somewhere and get on relief. You know this white-black thing. We never had any problem until these outside agitators came in. I don't know what the younger generation will come to, but the older people get along just fine. There's nothing an ordinary man can do about the situation. J. Edgar Hoover knows it's the Communists."[1]

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[1] Congressional Record, op. cit.

Summary

At the present time conditions and circumstances are indeed bleak for the rural poor. In point of fact the call for retreat of the War on Poverty was loud and clear. With few exceptions federal agencies have been involved in a holding operation that meant "business as usual." Each bureaucracy jealously guards its own turf waiting for new administrative policy decisions. One might say that the only areas of success for the official U.S. policy--foreign or domestic--of the "enclave theory" was in dealing with America's poor and minority groups. They are being isolated (literally) and strangled (figuratively).

The Office of Minority Business Enterprise and SBA do not really help the rural poor.

With the exception of the community economic development effort, O.E.O. was either steadily running out of money or losing programs from under themselves. By and large, the agency was being so whittled down that it seemed to be in the position of spending most of its time keeping itself alive. And BIA, DofA, FmHA, et al, were functioning as the atrophied agencies that made them a legend.

A Wider Perspective of Economic Development

With the exception of one bright spot--Community Development Corporations--the cumulative effort of years of activities, policies, and confusing slogans rural and urban can be summed up in the following general statements:

(1) Relative to any conceivable business criteria, there is still no such thing as minority capitalism or enterprise. (For example, black-owned businesses employ an estimated 150,000 people and generate less than 1% of the total black national income.)

(2) There is no overall, coherent public or private sector strategy for community economic development.

(3) Federal and state support of community economic development has been mainly political rhetoric.

(4) Corporate involvement in and financial institution support of community economic development has been largely advertising and public relations.

(5) Private sector coalitions and advisory/support groups have been overpublicized and underproductive.

(6) No one black, tan, or poor individual or group can speak for the majority of the poor regarding economic development.

(7) New legislation, although useful, is not essential to achieving moderate results.

(8) Current federal institutions, with some changes, could be extremely responsive and effective in developing community economic projects.

(9) Time is running out. Those community leaders who were willing to give the administration a chance are under severe pressures from their constituencies to deliver concrete projects.

(10) The basis for economic development, as viewed by most minority (poor) constituencies, is a community problem, rather than a matter of merely creating a handful of new entrepreneurs.

Why do these conditions exist?

(a) Lack of cohesive leadership by the federal government in providing a comprehensive strategy.

(b) Lack of corporate and banking involvement.

(c) Lack of genuine coordination between governmental agencies: federal (OEO, DofA, FmHA, SBA, OMBE, EDA, Labor); state; and municipal.

(d) Lack of hard information and intelligence as to what is really happening in the whole field (a communications gap).

(e) The inability of the white business and political establishment to admit to itself that it is unwilling to encourage the development of institutions for the minority (poor) community that might one day demand interaction on the basis of real equality (institutionalized racism).

(f) Lack of leadership, direction, and experience on the part of nongovernmental organizations which were established to provide venture capital, technical assistance, or other expertise.

(g) The inability of government and business leaders to perceive the full dimensions of economic development as a multi-faceted, community issue. Not on a piecemeal basis.

In conclusion, Murray Kempton's perceptions of the reasons for the EDA giveaway in Oakland seemed to be equally true for the federal government's rationale for protecting and supporting the establishment constituencies that they so generously favored with funds, contracts, and other assorted goodies--"to him who hath it shall be given."

A former Secretary of Commerce once wrote that:

> . . . The vast repetitive operations are dulling the human mind . . . The aggregation of great wealth with its power to economic domination presents social and economic ills which we are constantly struggling to remedy.

And a former President (of the U.S.) stated that the:

> American people from bitter experience have a rightful fear that great business units might be used to dominate our industrial life and by illegal and unethical practices destroy equality of opportunity.

The President was not JFK, LBJ, Eisenhower, FDR or HST; the Secretary of Commerce was not a radical populist. In fact, they were one in the same person, Herbert Hoover. He maneuvered beyond belief to keep that which belonged to the public out of the hands of private industry. Hoover's failure and shortcomings were economic in nature but even he gave up believing in the trickle-down theory. America's rural poor cannot afford policies that have been so disproved, nor can the Nation. Perhaps Congress and the President will take a lead from the Quaker from Iowa and attempt to exercise some "friendly persuasion" to render unto the people the land which is theirs. Instead of rereading their own warmed over press releases or the Neilson ratings, Nixon and his Cabinet would do well to read Hoover's American Individualism.

APPENDIX I

Legislative Recommendations

Generally, there are a whole range of legislative changes that Congress could enact. The federal government could: guarantee bank loans from private lending institutions; provide capital in the form of direct grants to individual farmers and low-income cooperatives; provide low-interest, revolving loan funds available to regional development banks; and establish a national strategy center which could provide technical assistance and training.

The main thrust would be to utilize the same kinds of financing and leveraging techniques that are utilized by private industry; but make these mechanisms accessible and responsive to low-income farmers and cooperatives. In addition it is critical to reform: the present tax laws, price support programs and other subsidies that favor the corporate agribusiness'. Anti-trust and anti-monopoly laws will have to be enforced. The Reclamations Lands Authority Act and Family Farm Act should be passed.

However, I am going to focus my specific recommendations to one particular piece of legislation, Title VII--Community Economic Development of the Economic Opportunity Act. The purpose of the new "Title VII"(which was passed in the Senate last September by a vote of 47 to 12) is to both coordinate a number of the economic development programs previously included in the Economic Opportunity Act as well as to specifically provide access to existing programs of other federal agencies for OEO-funded community development corporations (CDC's) and co-ops.

The new title is a substitute for the Special Impact Program which was originally co-sponsored by the late Senator Robert F. Kennedy and Senator Jacob Javits. As was indicated earlier, the Amendment stated forthrightly that communities have the right to control and to direct improvement of a whole variety of business and social opportunities. The community-owned corporation (and the co-op) was the key to the whole concept. Before passage of the Amendment last year, hearings were held which examined the performance of the CDC concept. I think it in important to the testimony that was made at that time.

In three days of hearings on economic development during the past session (March 25 and April 29 in Washington and June 11 in Bedford-Stuyvesant) the Senate Employment, Manpower and Poverty Sub-committee heard a good deal of testimony from community groups, economists and national organizations on the problems and strategies of alleviating poverty through economic development in urban ghettos and depressed rural communities. The Sub-committee carefully considered the various approaches that were being tested, including "black capitalism", "minority entrepreneurship" and the CDC model. It was apparent from both the background report issued by the Sub-committee and the remarks of Senators Javits and Ted Kenned (the co-sponsors of the new Title) when they introduced the legislation, that if economic development projects were to be truly responsive to the problems of low-income and minority communities, that the mechanism offering the best opportunity for success is the community development corporation. Both Senators and the Report re-affirmed the vitality and viability of the community economic development concept. Careful attention was also given to the specific legislative changer that had to be made in order to strengthen the potential of this program.

During the course of the testimony, individuals representing diverse community groups pointed out patterns of discrimination and/or administrative inflexibility. which lies at the root of the failure, of other federal agencies to offer the CDC's access to their programs. Those agencies singled out for criticism were: the Farmers Home Administration (FmHA) of the Department of Agriculture--which administered the Rural Loan Program (Title III-A of the EOA, 42 U.S.C. 2841-55); the Small Business Administration; the Economic Development Administration of the Department of Commerce and HUD.

The Community Economic Development Section contains three parts which attempt to comprehensively deal with the shortcomings of the prior legislation. They are:

Part A which focuses more sharply on urban and rural community-based corporations. It emphasizes the crucial role played by federally-supplied equity capital and mandates the cooperation of other Federal agencies in the growth of community development corporations.

Part B: Part B provides grants to rural cooperatives comprised of a majority of poor people. Such grants are essential to help launch rural cooperatives and thus help low-income farmers to utilize the kinds of resource concentration that are essential if they are to exist as independent farmers.

Part C: Part C provides technical assistance and long-term loan funds for urban and rural areas. It extends the existing $87 million title III-A rural loan revolving fund, which the administration has terminated, and provides for the eventual creation of a matching urban development loan fund. In conformity with other federally supported revolving funds, the interest on loans made by the fund can be used to defray administrative, technical assistance and supervisory costs of the fund rather than being paid to the Treasury. (A measure of the Sub-committee's view of the importance of Title VII is the authorization recommendation of $60 million for fiscal 1972 and $120 million for fiscal 1973.)

A brief section-by-section analysis offers some further insights into the implications of substantive, as well as administrative changes.

Section 711 legislatively recognizes the community development corporation as an entity. Section 713 (a) (1) recognizes that CDC-access to SBA's Small Business Investment Corporation (SBIC); Minority Enterprise Small Business Investment Corporation (MESBIC); and Local Development Corporation (LDC) programs have been hindered by SBA's refusal to treat OEO grant funds in the hands of CDC's as the "private paid-in capital" necessary for eligibility. This section allows the CDC's to make maximum use of all leverage devices of programs offered by the SBA, especially the ones mentioned above, and provides that Title VII funds invested in SBIC's, MESBIC's or LDC's by CDC's are to be treated as, "private paid-in capital and paid-in surplus", combined "paid-in capital and paid-in surplus" and "paid-in capital".

In addition, it encourages CDC access to all other SBA programs, including the various direct loan and guarantee programs, the Lease Guarantee Program and the Section 8-(a) subcontracting and procurement programs. In testimony before the Sub-committee, it was pointed out that the SBA has, in a number of instances, refused either directly or indirectly, to make these programs available to CDC-initiated enterprises. Thus, in its Report the Sub-committee stated forthrightly "that CDC's offer one of the few opportunities to assist businesses in depressed urban and rural areas where there is the promise both of adequate capitalization, through combined utilization of OEO grants and SBA assistance, and substantial inputs of technical assistance at all levels--enterprise development, feasibility in marketing analyses, mandgement and operations." Thus, in the committee's view, distinctions drawn by SBA which have the effect of excluding CDC's or imposing unrealistic obligations on them are..."unfortunate and reflect a view of free enterprise inconsistent with the need to devote resources to the problems of poor urban and rural communities." Accordingly, section 713 (a) (2) is intended to result in the issuance of guidelines that will maximize the availability of SBA programs to CDC's receiving financial assistance under the Title VII program.

Section 713 (b) strengthens provisions of Title I-D, under which CDC areas be deemed "redevelopment areas", thus making them eligible for assistance from the Economic Development Administration (EDA). In the past, EDA has insisted upon submission of an "overall economic development plan" (OEDP), the preparation of which is a long and expensive process. The Sub-committee viewed this as an unnecessary, duplicative impediment and specified that it be dropped. Accordingly, the section specifies that CDC's shall qualify for both the facilities grants (Title I) and the loans (Title II) available under the Public Works and Economic Development Act of 1965, as amended, and provides that CDC's shall be deemed to fulfill the overall economic development planning requirements of Section XII (b) (10) of that Act.

Section 713 (c) insures that CDC's will have access to the programs administered by HUD that provide support for low and moderate income housing and low cost land for development as follows:

Section 106 of the Housing and Urban Development Act of 1968, to insure that CDC's qualify as nonprofit sponsors and for the technical assistance and the seed money for planning and preconstruction costs available to such sponsors of low-income housing;

Section 221, 235 and 236 of the National Housing Act of 1969, to insure that CDC's qualify for Federal subsidies to assist nonprofit sponsors of low and moderate income mortgage and rental housing programs;

Title I of the Housing Act of 1949, the Urban Renewal program, to insure that CDC's qualify to acquire low cost urban renewal land for development; and

Section 701 (b) Housing Act of 1954, to insure that CDC's will be considered as subcontractors by public agencies for demonstration programs in small urban area comprehensive planning.

Section 721 mandates a concentrated effort for rural development. Toward that end it provides for a program of grants and technical assistance to rural cooperatives for farming, purchasing, marketing and processing.

Section 731 also provides for urban and rural development loan funds. In effect, Sub-section (c) (2) reinstitutes the current Title III-A loan program which has had nearly $87 million in assets and had been terminated by the Administrat The committee found that this loan program would be an invaluable resource for the development of rural areas and should be continued. Most testimonies elicited during the hearings indicated that the Farmers Home Administration which administered this program heretofore under a delegation of authority from OEO had simply done a terrible job and in point of fact several witnesses stated flatly that FmHA did not view low-income farmers or low income farm cooperatives as a suitable client constituency. Therefore the new legislation calls for a more effective rural economic development program administered by OEO which will provide grants, loans and adequate technical assistance to both small farmers and rural cooperatives.

The rural fund would start with a minimum of $27 million and the urban fund will be initiated when more than $60 million is appropriated for Title VII. The section also provides for a much more ambitious technical assistance and training program as well as for experimental research and development programs.

In summary, it should be said that the new legislation goes a long way toward plugging most of the administrative loopholes that existed under the old I-D legislation. In doing so, it resolves certain problems that have consistently impeded the capacity and growth of the CDC's. Some of these issues that I have mentioned above, such as the recapturing of the Rural Loan Program, the opening of access to supplementary programs offered by other agencies, and the acceptance of government funds as "paid-in capital" for LDC's, MESBICS and SBIC's will go a long way toward strengthening the delivery system of CDC's.

Additional issues that are resolved are: that the director of OEO cannot delegate any programs to other agencies; the assets of CDC's are the property of CDC's; and that the director has the authority to waive 10% non-federal share without the necessity for promulgating regulations. These too will be useful.

In conclusion, it should be pointed out that there are some basic problems with this legislation. The first and foremost is that it was vetoed by the President on December 9, 1971. Although he focused his attack on the Child

Development Amendment, the President also emphasized his strong opposition to "categorical programs" which includes the Community Economic Development Title. There are very strong indications that both the House and Senate Committees will reintroduce a new bill, with Title VII included, in January. It deserves your full support and should be passed. Another example is money! The Conference Committee will have the opportunity to specify an authorization figure and it is obvious that the success of several of the above-mentioned programs are going to require increased authorization. (For example, in order for OEO to assume the administration of the new rural development program it must establish a totally new delivery system which will be costly.)

APPENDIX II

PROPOSAL FOR AN AGRICULTURAL SERVICE CORPS ("ASC")

I. Who would be served?

Agricultural marketing and supply cooperatives comprised in major part of low and low-middle income farmers.

II. Why is it necessary?

The Extension Service operation has largely functioned as a vassal of the corporate (agri-business) farming interests. It has done little or nothing for the small farmers. The Extension Service-corporate farm relationship is now so institutionalized and intractable that it is almost impossible to make it responsive to small farmers. The same could be said for the DofA, and the Farmers Home Administration.

III. Purpose:

1. To provide high quality expertise to such co-ops in respect of planting, cultivating, harvesting, processing, marketing, accounting, etc.
2. To begin to close the technological gap between the corporate farming operation and small farmer co-ops.
3. To establish an educational and research center to deal with problems facing small farmer co-ops. Special problems would be investigated; i.e., which crops are suitable for such operation (e.g., strawberries); special processing and marketing problems, management problems, etc. (It is not inconceivable to deal with other related problems such as rural housing, health, manpower training, education and consumerism.)

IV. What is the model for the CORPS?

The Reginald Heber Smith Fellowship Program. (This program is different from VISTA in that ASC will pay a "real" wage [e.g. 10,000/yr. for new graduates]).

V. Who will participate?

Qualified and motivated graduates from the agricultural schools of universities.

VI. Under which agency?

O.E.O., which has been the most responsive to the needs of the rural poor. Or contract with a University (like the Reggie Program contracts with Howard).

Senator Stevenson. Thank you very much, Mr. Blaustein. You have presented a most thorough and profound analysis of past, present, and future policies. I intend to carefully study your prepared remarks, and I know they will serve as a cornerstone for discussion and action that is essential if we are to reverse the present dilemma facing rural America.

We will now hear from Mr. Barnes.

STATEMENT OF PETER BARNES, WEST COAST EDITOR, THE NEW REPUBLIC, SAN FRANCISCO, CALIF.

Mr. Barnes. Senator Stevenson and Senator Taft: First let me say that, having sat through all of these hearings for the past 3 days, I have listened very carefully to all of the testimony and I think that these are perhaps the most constructive, most educational Senate hearings that have been held in a long, long time in the State of California, and I would hope that they lead to a reawakening of rural America along democratic lines.

I shall be fairly brief in my testimony today because much of what I have to say is contained in three articles which were published in The New Republic on June 5, 12, and 19, 1971, which have already been introduced into the record.

Today I shall try to put the problems of rural America into some kind of perspective, and then explore some possible strategies for change. It seems to me that two basic types of questions should be asked. The first category of questions is along these lines: What kind of society do we have in rural America? What kind of society are we heading towards? What kind of society do we want?

The second category of questions has to do with government policies. What are the effects of State and Federal policies on rural America? Are these the desired effects? If not, what can be done to obtain the desired effects?

Let me begin by addressing the first group of questions. I think the testimony before this subcommittee has indicated that we have a rural society which produces a great abundance of agricultural and mineral wealth, but which does not distribute the fruits of that production in a democratic manner. This description of rural society has been confirmed by a host of studies and statistical reports, some of them conducted by this subcommittee itself in past years.

Most recently, a report of the Census Bureau revealed that the incidence of poverty in rural America is higher than in any other segment of our society. Nineteen percent of farm families, and 10 percent of nonfarm families, are living below the poverty level—this despite the fact that millions of the poorest rural families have migrated to cities.

I think the testimony that we have heard has also showed that one reason for this widespread poverty in rural America—this persistent disparity between rich and poor—is a great inequality in access to productive resources, primarily to land and water. The concentration of land in the hands of relatively few large owners has long been a characteristic of California.

In fact, this concentration really began to form when California became a State. It began with the Mexican land grants and this was continued from the early days of statehood and, in fact, was worsened by a whole series of giveaways of public lands to railroads and land speculators.

I think we had some testimony earlier about the Desert Land Act of 1877 which was the beginning of the formation of the Kern County Land Co. which today has become Tenneco.

The monopolization of water began in the late 19th century when cattle barons and land speculators like Henry Miller, James Haggin, and Lloyd Tevis amassed enormous tracts of land along the rivers of the Central Valley and acquired the water rights as well. One purpose of the Reclamation Act of 1902 was to combat the monopolization of land and water in the West. However, as you heard, because of grossly inadequate enforcement of the 160-acre limitation and the residency requirement, it has not had the effect of breaking up this monopolization of land and water.

Today less than 50 corporations own better than half of the prime agricultural land in California.

The concentration of land and water in the hands of relatively few families and corporations has meant that the benefits of technological change have not been equitably shared. Most of the benefits of dams and canals and new harvesting machines have gone to large landowners, while most of the costs have been borne by displaced farmworkers and by taxpayers generally, who have not only subsidized the development of new technology but have had to assume the sizable welfare burden it has produced.

A society in which access to productive resources is inequitably distributed is inevitably a society in which power is undemocratically held. Landless farmworkers have very little to say about what goes on in rural California, and very little political influence over the agencies of Government, as we have heard, and small farmers are becoming increasingly powerless. The basic decisions that affect the lives and livelihoods of rural Californians are not made in local communities, or through the democratic process, but in the corporate boardrooms of Houston, San Francisco and other cities. The factor that most motivates these decisions is the urge to maximize profits for absentee shareholders. The needs and desires of rural citizens are of minimal concern.

What kind of rural society are we heading toward? Perhaps the best way to answer this question is to project ourselves 50 years into the future. To help do this, I have blown up a picture from the National Geographic magazine of February 1970, which is over here (indicating). It is an artist's conception, which was drawn under the guidance of the U.S. Department of Agriculture, of what farming will look like in the early 21st century.

For the benefit of the record, I will describe the picture briefly. In the foreground, over here (indicating), is a bubble-top control tower from which one man, aided by another man looking over his shoulder, controls every aspect of production, and it is done by computer.

Over there on the left (indicating) there is a big tiller-combine, which is remote-controlled, and the field it is rolling over along these tracks that go alongside is 10 miles long. It has been leveled with the aid of nuclear explosives. Above the tiller, and to the left over there (indicating), is a jet-powered helicopter which is spraying insecticides. Then there is a service road in the middle and on the other side we have these conical mills which are blending feed for cattle, which are over there (indicating) in those skyscrapers.

There is a processing plant behind the skyscrapers and in the background are several plastic domes in which there are controlled environments for growing strawberries, tomatoes and other high-income crops.

In the back somewhere, back there on the horizon (indicating), is a manmade lake from which a pumping plant supplies water for the entire operation. Buried underground are sensors which find out when the crops need water and an automated irrigation system that brings the water to the crops.

In the eyes of the U.S. Department of Agriculture, this picture represents the ultimate triumph of American agriculture. But let's look at this picture and consider for amoment, from a human point of view, and ask, as in some of the children's puzzle books, What is wrong with it?

One thing that seems to be obviously wrong with it is that people are totally absent, except for those two guys in the bubble tower. Where are the people? Presumably they are way back there in that city that you can see on the horizon, detached from nature and alienated from their work. Quite possibly they are unemployed. If they do have jobs, it could be in a large bureaucracy, located in a climate-controlled building whose windows are permanently sealed shut. For dinner they are probably eating a precooked, overpriced assortment of specially bred and synthetic foods.

Another thing wrong with this picture is that it represents an ecological disaster. Large-scale monoculture, massive use of inorganic chemicals, destruction of natural contours, with or without nuclear explosives—all of these things are esthetically displeasing and ecologically very dangerous.

What kind of rural society do we want? The kind of society represented by this somewhat over-dramatic picture is, I believe, neither desirable nor consonant with our democratic traditions. I do not think it is inevitable, either. The kind of rural society I believe most Americans want is one in which wealth, political power, and opportunity for self-improvement are equitably shared by those who work. It is a society in which men and women can live close to nature, be economically independent, and not be exploited by absentee owners, financial institutions, or large conglomerate corporations. It is a society that this subcommittee would not have to investigate all the time—a society in which the indignities of migratory labor will no longer exist, not because farmworkers will have been totally replaced by machines, such as those (indicating), but because they will have become farmowners, rooted in their communities, working the land they own, employing relatives or neighbors to do the extra work at harvest time.

Before suggesting how such a society might be brought about, let me briefly discuss the second category of questions I mentioned at the outset, the effects of Government policies.

Government policies affecting rural America are of two types—policies of omission and policies of commission. Sometimes the effects of Government policies are intended, and sometimes they are unintended.

Perhaps the foremost policy of omission that affects rural America, and we have heard a lot about it in previous testimony, is the Government's failure to raise farm prices to a level where an efficient family farmer can recover his cost of production plus some compensation for his labor and a reasonable return on his capital investment. Despite the much-publicized subsidy programs, farmers—particularly small farmers—have long been caught in a tightening price squeeze. Primarily this is because farmers, unlike General Motors or United States Steel, cannot administer the prices that they receive for their products. The result is that the cost of almost everything the farmer buys has steadily risen, while the price of what he sells has held about the same, and sometimes even fallen.

Federal tax policies affect rural America in ways that may or may not be intended. The lower rate of taxation for capital gains encourages land speculation and absentee ownership. In much the same way, various write-off provisions of the tax laws permit corporations or individuals with nonfarm sources of income to invest in farming or ranching for tax purposes. Such "tax farmers," as we have heard, can be much less efficient than the family farmer and yet undersell him in the marketplace. Many corporate farmers receive additional tax favors against which the family farmer cannot compete.

The case of Tenneco is a classic example. Thanks to the oil depletion allowance, foreign tax credits, and intangible drilling-cost write-offs, Tenneco's Federal income tax rate in 1970 on profits of $182 million was 13.3 percent. In 1969, on profits of $91 million Tenneco not only paid no Federal income taxes at all, but actually wound up with a tax credit, with the Government owing Tenneco $13 million.

Rural America is also greatly affected by Government-subsidized research conducted at land-grant colleges. Suffice it to say that this research tends overwhelmingly to favor the replacement of people by machines, and thus favors large owners of land and capital at the expense of small owners and farmworkers. Water subsidies, crop subsidies and labor policies have a similar effect. So, too, in the past did the giveaway of large tracts of public land to railroads and speculators; and so, too, does the continued failure to enforce the antimonopoly provisions of the 1902 Reclamation Act.

The total effect of Government policies can probably be summed up in one sentence: It is to reduce the number of family farmers and thus the size of the rural middle class.

Obviously, if we are to change the nature of rural society, we must change Government policy. Here, two principal strategies are possible.

One strategy is to accept the corporate takeover of agriculture and attempt to reconstruct rural society around other forms of industry.

I should say there is another strategy and that is just to let rural America totally disappear, as we have heard some testimony has already happened, and this pointing picture would be the culmination of that. But, assuming we want to salvage rural America, there are these two methods.

The industrial strategy envisions the construction of highways, industrial parks, and other public facilities, and the provision of tax incentives designed to attract new industry. I am not opposed to measures that would attract new industries to rural areas, as there is unquestionably a need for nonfarm jobs. However, we must not allow ourselves to believe that such a strategy will lead to the kind of rural society we desire.

The corporate-industrial approach to rural development would not alter the distribution of wealth and power in rural America. Indeed, it would give more power to absentee-owned corporations, and add mainly to the wealth of shareholders in the cities. Moreover, I doubt whether it would provide a great number of decent jobs, if by decent jobs we means jobs that provide a degree of self-fulfillment to workers. When one looks around at industry today, one sees absenteeism, shoddy workmanship, low morale, and alienation. Workers cannot relate to the work they are doing. One reason they cannot relate is that their product means nothing to them. It requires little skill or personal involvement to make, and it is taken away from them by the factory owner, who receives both the psychological credit and the financial rewards. It is my feeling that most family farmers would rather work on the land than in a factory, and that most farmworkers would rather become farm owners than industrial laborers. Certainly, they would rather become farm owners than welfare recipients. If we are talking about decent jobs, their preferences ought to be given some weight.

The only strategy for change that offers hope of creating the kind of rural society that corresponds to American traditions is one which deals with the fundamental structure of rural society, the way agriculture is organized and the way land is used and owned.

To achieve the kind of rural society I have been talking about, and I think both members of the subcommittee have been talking about, a two-pronged approach is necessary. First, we must preserve what is best in rural society today. This means we must stop the corporate invasion of agriculture, and help existing family farmers to survive. Second, we must enable more people, particularly farmworkers and sharecroppers, to become farm owners.

To achieve these twin goals, it will be necessary to change a broad spectrum of Government policies. Tax laws, price support programs, and research policies should be designed to favor efficient family farm units and worker-owned cooperatives rather than large absentee corporations. Antitrust and antimonopoly laws will have to be enforced. And, let us be frank about it, land will have to be redistributed from those who own too much to those who don't own any, especially in California and in the South. In other countries this is called land reform, and the U.S. Government has ardently promoted it.

Clearly, such changes will take a considerable period of time to bring about, but we must start right away. These hearings have been of great value in bringing before the public and the Senate the basic information needed to develop a coherent strategy for change. Now the time has come to move forward with legislative programs.

Two important pieces of legislation have already been introduced. One is the Family Farm Act, which has been sponsored in the Senate by Senators Nelson, Mondale, Hughes, and others. The Family Farm Act would amend the Clayton Act so as to prohibit vertically integrated conglomerates from engaging in agriculture. Conglomerates presently engaged in agriculture would have to divest themselves of their agricultural operations over a 5-year period.

The second important piece of legislation is the Reclamation Lands Authority Act, which Congressman Waldie talked about this morning and which has been sponsored in the Senate by Senators Harris, Cranston, and others. This bill would authorize the Federal Government to purchase excess land holdings in Federal reclamation areas and resell them to resident family farmers and farmworkers.

In addition to these two measures, I believe another major piece of legislation, as yet unwritten, ought to be pursued. It would be the contemporary equivalent of the Homestead Act; perhaps it might be called the Agricultural Opportunity Act. This act would enable the Federal Government to purchase and resell large land holdings in nonreclamation areas. It would provide credit on liberal terms so that new farmers could purchase or lease these lands and get started in agriculture. It would enable farmworkers and sharecroppers to acquire, cooperatively or individually, some of the agricultural operations that corporations under the Family Farm Act would have to relinquish. Effective safeguards would be included to prevent absentee ownership, speculative investment, and the reaccumulation of large land holdings.

In addition, I think we ought to consider the possibility of a Railroad Land Reversion Act. Millions of acres were given away free to the railroads in the 19th century. They served their purpose; they got the railroads built. Now I think that these same lands could serve another very valuable purpose which would be to open opportunities for farmworkers and sharecroppers and young people who want to get into agriculture as self-employed farmers.

Of course, there will be opposition to these measures. It will be claimed that they are impractical or radical or unnecessary. I would say that they are workable, urgently needed, and squarely in the American tradition. Both political parties have long paid tribute to the family farm. Both have pledged to revitalize rural America. Both have talked about fighting poverty and giving poor people "a piece of the action." That is what this legislation would be about.

America is, presumably, a country of free private enterprise. But we ought to stop and ask what free enterprise means. Free enterprise, to me, does not merely imply the right to get big. It also implies the right to start. As corporate farms become increasingly integrated with processors and distributors, as conglomerates like Tenneco gain control of agriculture from "seedling to supermarket," as agribusiness advances toward the technological millenium in which ten-mile-long fields are sowed and harvested by remote-controlled machines, the right to get a start in farming will be obliterated, as it almost is today. Americans must decide whether they want the rich to get richer or the poor to have a chance. If the right to get started in farming is closed off, if the profits of the few are given precedence over the needs and desires of the many, the consequences can only be unpleasant.

In closing, I would like to emphasize that time is running short. Vertical integration and corporate ownership of land are rapidly spreading. The average age of the family farmer is 58, and very few young people are entering agriculture today. Across America more than 2,000 family farms are going out of business each week. Unless we act promptly, we may wake up and find the American countryside looking like it does in that picture and be unable to do anything about it.

Senator Stevenson. That picture is a frightening one. It is even more disturbing to me that that picture is a dream of the Department of Agriculture. It doesn't look like the American dream to me.

Senator Taft, do you have any questions?

Senator Taft. No. I would only like to add that I think the witness has summarized the problem very well.

I would just like to ask him to briefly explain his proposal concerning the Railroad Land Reversion Act, which I don't think was covered in his printed testimony.

Are you referring to land that is still in the ownership of the railroad? What do you mean specifically and how would it work?

Mr. Barnes. During the nineteenth century——

Senator Taft. I know what happened.

Mr. Barnes. You know all about that, all right. These lands still remain in the ownership of the railroads. The Southern Pacific here in California——

Senator Taft. Some do, but a great many do not.

Mr. Barnes. That is true. But the Southern Pacific in California own over 3,000,000 acres. It is the largest single landholder in the state. In some cases I think we have heard some testimony that this land was obtained by the railroad to induce them to build a line, which they actually didn't build, but they kept the land, anyway.

I simply think that, having gotten much of this land for free, that you can't really make a case for them being allowed to keep it.

Senator Taft. I don't know about that. You have several new owners now. They have no relation to the previous owners. It was something that was legally their property and you are evidently advocating confiscation?

Mr. **Barnes**. No, we are not talking about land that they might have sold to other owners.

Senator **Taft**. No; I mean the changes in railroad ownership, too.

Mr. **Barnes**. Right. I would certainly compensate them.

Senator **Taft**. Would you compensate all people who have holdings in railroad property?

Mr. **Barnes**. I don't believe in confiscation, but I think a reasonable price could be established. If they got the land for free, they have certainly profited to a very considerable extent over the past 90 years.

Senator **Taft**. Somebody may have, but not necessarily the people you are talking about.

Senator **Stevenson**. I think the railroads would be glad to give away some of those lands.

Senator **Taft**. Due to taxes on them.

Senator **Stevenson**. The taxes and the maintenance of the roadbeds is one of the causes of their economic difficulties.

Senator **Taft**. I have nothing further.

Senator **Stevenson**. I certainly agree with Senator Taft that you not only have made a very eloquent statement, but a very fine summary of the statements and arguments which have been presented to this subcommittee. It paints a very graphic picture of the conditions in rural America now, and perhaps in the future, but, I hope not.

Thank you very much, Mr. Barnes.

Mr. **Barnes**. I would just like to say one last thing and that is I think the information collected during these hearings speaks for itself and I hope that the members of the subcommittee will go on from here to really lead on some of the issues we have been talking about, because I think a lot of peoples' hopes rest on this subcommittee. I am talking about people in rural America, the farm workers, sharecroppers, and I hope you don't let them down.

Senator **Stevenson**. We wouldn't be holding these hearings for the sake of hearings. We are holding them because we want to find out what the conditions are in rural America because we need ideas and because we want to take action.

We will try. Thank you.

I order printed at this point in the record your entire statement together with your articles on Land Reform from the New Republic Magazine of June 5, 12, and 19, 1971.

(The information referred to follows:)

Statement before the

Senate Subcommittee on Migratory Labor

San Francisco, January 13, 1972

Peter Barnes
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3975 Clay Street
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Testimony of Peter Barnes
before the Senate Subcommittee on Migratory Labor
January 13, 1972

I shall be fairly brief in my testimony today because much of what I have to say is contained in three articles, published in the New Republic on June 5, 12 and 19, 1971, which have already been introduced into the record.

Today I shall try to put the problems of rural America into some kind of perspective, and then explore some possible strategies for change. It seems to me that two basic types of questions should be asked. The first category of questions is along these lines: What kind of society do we have in rural America? What kind of society are we heading towards? What kind of society do we want?

The second category of questions has to do with government policies. What are the effects of state and federal policies on rural America? Are these the desired effects? If not, what can be done to obtain the desired effects?

Let me begin by addressing the first group of questions. I think the testimony before this subcommittee has indicated that we have a rural society which produces a great abundance of agricultural and mineral wealth, but which does not distribute the fruits of that production in a democratic manner. This description of rural society has been confirmed by a host of studies and statistical reports. Most recently, a report of the Census Bureau revealed that the incidence of poverty in rural America is higher than in any other segment of our society. Nineteen percent of farm families, and ten percent of non-farm families, are living below the poverty level--this despite the fact that millions of the poorest rural families have migrated to cities.

I think the testimony has also showed that one reason for this widespread poverty in rural America--this persistent disparity between rich and poor--is a great inequality in access to productive resources, primarily to land and water. The concentration of land in the hands of relatively few large owners has long been a characteristic of California. The monopolization of water began in the late 19th century, when cattle barons like Henry Miller, James Haggin and Lloyd Tevis amassed enormous tracts of land along the rivers of the Central Valley, and acquired the water rights as well. One purpose of the Reclamation Act of 1902 was to combat the monopolization of land and water in the West. However, because of grossly inadequate enforcement of the 160-acre limitation and the residency requirement, it has not had this effect.

The concentration of land and water in the hands of relatively few families and corporations has meant that the benefits of technological change have not been equitably shared. Most of the benefits of dams and canals and new harvesting machines have gone to large landowners, while most of the costs have been borne by displaced farmworkers and by taxpayers generally, who have not only subsidized the development of new technology but have had to assume the sizeable welfare burden it has produced.

A society in which access to productive resources is inequitably distributed is inevitably a society in which power is undemocratically held. Landless farmworkers have very little to say about what goes on in rural California, and small farmers are becoming increasingly powerless. The basic decisions that affect the lives and livelihoods of rural Californians are not made in local communities, or through the democratic process, but in the corporate boardrooms of Houston, San Francisco and other cities. The factor that most motivates these decisions is the urge to maximize profits for absentee shareholders. The needs and desires of rural citizens are of minimal concern.

What kind of rural society are we heading toward? Perhaps the best way to answer this question is to project ourselves fifty years into the future. To help do this, I have blown up a picture from the National Geographic magazine of February, 1970. It is an artist's conception, guided by the U. S. Department of Agriculture, of what farming will be like in the early 21st century.

For the benefit of the record, I will describe the picture briefly: In the foreground is a bubble-top control tower from which one man, aided by a computer, monitors every aspect of production. On the left, a remote-controlled tiller-combine glides across a ten-mile-long wheat field which has been levelled with nuclear explosives. Above the tiller, a jet-powered helicopter sprays insecticides. Across a service road, conical mills blend feed for cattle, which fatten in skyscraper feedlots. A beef processing plant is directly behind the skyscrapers. In the background are several illuminated plastic domes containing controlled environments for growing strawberries, tomatoes and other high-income crops. Near the horizon is a manmade lake from which a pumping plant supplies water for the entire operation. Buried underground are sensors which find out when the crops need water, and an automated irrigation system that brings it to them.

In the eyes of the U.S.D.A., this picture represents the ultimate triumph of American ingenuity and farsighted government policies. But let us consider this picture for a moment from a human point of view, and ask, as in the children's puzzle books, what is wrong with it.

One thing that is wrong with it is that people are almost totally absent. Presumably they are crowded together in a distant city, detached from nature and alienated from their work. Quite possibly they are unemployed. If they do have jobs, it may be in a large bureaucracy which is housed in a climate-controlled building whose windows are permanently sealed. For dinner they probably eat a pre-cooked, over-priced assortment of specially bred and synthesized foods.

Another thing wrong with the picture is that it represents an ecological disaster. Large-scale monoculture, massive use of inorganic chemicals, destruction of natural contours, with or without nuclear explosives--all these things are aesthetically displeasing and ecologically dangerous.

What kind of rural society do we want? The kind of society represented by this somewhat overdramatic picture is, I believe, neither desirable nor consonant with our democratic traditions. I do not think it is inevitable, either. The kind or rural society I believe most Americans want is one in which wealth, political power, and opportunity for self-improvement are equitably shared by those who work. It is a society in which men and women can live close to nature, be economically independent, and not be exploited by absentee owners, financial institutions, or large conglomerate corporations. It is a society that this subcommittee should not have to investigate every two or three years--a society in which the indignities of migratory labor will no longer exist, not because farmworkers will have been entirely replaced by machines, but because they will have become farm owners, rooted in their communities, working the land they own, employing relatives or neighbors to do the extra work at harvest time.

Before suggesting how such a society might be brought about, let me briefly discuss the second category of questions mentioned at the outset--the effects of government policies.

Government policies affecting rural America are of two types--policies of omission and policies of commission. Sometimes the effects of government policies are intended, and sometimes they are unintended.

Perhaps the foremost policy of omission that affects rural America is the government's failure to raise farm prices to a level where an efficient family farmer can recover his cost of production plus some compensation for his labor and a reasonable return on his capital investment. Despite the much-publicized subsidy programs, farmers--particularly small farmers--have long been caught in a tightening price squeeze. Primarily this is because farmers--unlike, say, General Motors or U.S. Steel--cannot administer the prices that they receive for their products. The result is that the cost of almost everything the farmer buys has steadily risen, while the price of what he sells has held about the same, and sometimes even fallen.

Federal tax policies affect rural America in ways that may or may not be intended. The lower rate of taxation for capital gains encourages land speculation and absentee ownership. In much the same way, various write-off provisions of the tax laws permit corporations or individuals with non-farm sources of income to invest in farming or ranching for tax purposes. Such "tax farmers" can be much less efficient than the family farmer and yet undersell him in the marketplace. Many corporate farmers receive additional tax favors against which the family farmer cannot compete. The case of Tenneco is a classic example. Thanks to the oil depletion allowance, foreign tax credits and intangible drilling-cost write-offs, Tenneco's federal income tax rate in 1970 on profits of $182 million was 13.3 percent. In 1969, on profits of $91 million, Tenneco not only paid no federal income taxes at all, the government actually wound up owing Tenneco $13 million.

Rural America is also greatly affected by government-subsidized research conducted at land grant golleges. Suffice it to say that this research tends overwhelmingly to favor the replacement of people by machines, and thus favors large owners of land and capital at the expense of small owners and farmworkers. Water subsidies, crop subsidies and labor policies have a similar effect. So, too, in the past, did the giveaway of large tracts of public land to railroads and speculators, and so too does the continued failure to enforce the anti-monopoly provisions of the 1902 Reclamation Act.

The total effect of government policies can probably be summed up in one sentence: it is to reduce the number of family farmers, and thus the size of the rural middle class.

Obviously, if we are to change the nature of rural society, we must change government policy. And here two principal strategies are possible.

One strategy is to accept the corporate takeover of agriculture and attempt to reconstruct rural society around other forms of industry. This strategy envisions the construction of highways, industrial parks and other public facilities, and the provision of tax incentives designed to attract new industry. I am not opposed to measures that would attract new industries to rural areas, as there is unquestionably a need for non-farm jobs. However, we must not allow ourselves to believe that such a strategy will lead to the kind of rural society we desire.

The corporate-industrial approach to rural development would not alter the distribution of wealth and power in rural America. Indeed, it would give more power to absentee-owned corporations, and add mainly to the wealth of shareholders in the cities. Moreover, I doubt whether it would provide a great number of decent jobs, if by decent jobs we mean jobs that provide a degree of self-fulfillment to workers. When one looks around at industry today, one sees absenteeism, shoddy workmanship, low morale and alienation. Workers cannot relate to the work they are doing. One reason they cannot relate is that their product means nothing to them. It requires little skill or personal involvement to make, and it is taken away from them by the factory owner, who receives both the psychological credit and whatever financial rewards the product may bring. It is my feeling that most family farmers would rather work on the land than in a factory, and that most farmworkers would rather become farm owners than industrial laborers. If we are talking about decent jobs, their preferences ought to be given some weight.

The only strategy for change that offers hope of creating the kind of rural society that corresponds to American traditions is one which deals with the fundamental structure of rural society--the way agriculture is organized and the way land is used and owned.

To achieve the kind of rural society I have been talking about, I think a two-pronged approach is necessary. First, we must preserve what is best in rural society today. This means we must stop the corporate invasion of agriculture, and help existing family farmers to survive. Second, we must enable more people--particularly farmworkers and sharecroppers --to become farm owners.

To achieve these twin goals it will be necessary to change a broad spectrum of government policies. Tax laws, price support programs and research policies should be designed to favor efficient family farm units and worker-owned cooperatives rather than large absentee corporations. Anti-trust and anti-monopoly laws will have to be enforced. And--let us be frank about it--land will have to be redistributed from those who own too much to those who don't own any, especially in California and in the South. In other countries this is called "land reform," and the U.S. government has ardently promoted it.

Clearly, such changes will take a considerable period of time to bring about, but we must start right away. These hearings have been of great value in bringing before the public and the Senate the basic information needed to develop a coherent strategy for change. Now the time has come to move forward with legislative programs.

Two important pieces of legislation have already been introduced. One is the Family Farm Act, which has been sponsored in the Senate by Senators Nelson, Mondale, Hughes and others. The Family Farm Act would amend the Clayton Act so as to prohibit vertically-integrated conglomerates from engaging in agriculture. Conglomerates presently engaged in agriculture would have to divest themselves of their agricultural operations over a five-year period.

The second important piece of legislation is the Reclamation Lands Authority Act, sponsored in the Senate by Senators Harris, Cranston and others, and in the House by Congressmen Waldie, Kastenmeier, Dellums and others. This bill would authorize the federal government to purchase excess landholdings in federal reclamation areas, and re-sell them to resident family farmers and farmworkers.

In addition to these two measures, I believe another major piece of legislation, as yet unwritten, ought to be pursued. It would be the contemporary equivalent of the Homestead Act; perhaps it might be called the Agricultural Opportunity Act. This act would enable the federal government to purchase and re-sell large landholdings in non-reclamation areas. It would provide credit on liberal terms so that new farmers could purchase or lease these lands and get started in agriculture. It would enable farmworkers and sharecroppers to acquire, cooperatively or individually, some of the agricultural operations that corporations under the Family Farm Act would relinquish. Effective safeguards would be included to prevent absentee ownership, speculative investments, and the re-accumulation of large landholdings.

Of course there will be opposition to these measures. It will be claimed that they are impractical, or radical, or unnecessary. It would say that they are workable, urgently needed, and squarely in the American tradition. Both political parties have long paid tribute to the family farm. Both have pledged to revitalize rural America. Both have talked about fighting poverty and giving poor people "a piece of the action." That is what this legislation would be about.

America is, presumably, a country of free private enterprise. But we ought to stop and ask what free private enterprise means. Free enterprise, to me, does not merely imply the right to get big. It also implies the right to start. As corporate farms become increasingly integrated with processors and distributors, as conglomerates like Tenneco gain control of agriculture from "seedling to supermarket," as agribusiness advances toward the technological millenium in which ten-mile long fields are sowed and harvested by remote-controlled machines, the right to get a start in farming will be obliterated--as it almost is today. Americans must decide whether they want to rich to get richer or the poor to have a chance. It it is closed off, if the profits of the few are given precedence over the needs and desires of the many, the consequences can only be unpleasant.

In closing, I would like to emphasize that time is running short. Vertical integration and corporate ownership of land are rapidly spreading. The average age of the family farmer is 58, and very few yound people are taking over their parents' farms. Across America, more than 2,000 family farms are going out of business each week. Unless we act promptly, we may wake up and find the American countryside looking like it does in this picture, and be unable to do anything about it.

[From the New Republic magazine, June 5, 1971]

Land Reform—I: The Great American Land Grab

(By Peter Barnes)

With three out of four Americans now jammed into cities, no one pays much attention to landholding patterns in the countryside. How things have changed. A hundred years ago, land for the landless was a battlecry. People sailed the oceans, traversed the continent and fought the Indians, all for a piece of territory they might call their own. America envisioned itself—not entirely accurately—as a nation of independent farmers, hardy, self-reliant, democratic. Others saw us this way too. Tocqueville noted the "great equality" that existed among the immigrants who settled New England, the absence of rich landed proprietors except in the South, and the emergence in the western settlements of "democracy arrived at its utmost limits."

Along with industrialization, however, came urbanization and the decline of the Arcadian dream. Immigrants forgot about land and thought about jobs instead; the sons and grandsons of the original pioneers began to leave the farms and join the immigrants in the cities. Radical agitation shifted from farm to factory. Frontiersmen's demands for free land and easy credit were supplanted by workers' demands for a fair wage, decent conditions and union recognition. In due course a kind of permanent prosperity was achieved, and America directed its energies outwards, not inwards. Consumers bought their food in neatly wrapped packages, at prices most of them could afford, and forgot about the land.

Why, then, in 1971, should we turn back to look at our landholding patterns? One reason is that the land is still the cradle of great poverty and injustice. Another is that the beauty of the land is fast disappearing. Canyons are being dammed, redwoods felled, hills strip-mined and plateaus smogged. Wilderness and croplands are giving way to suburban sprawl and second-home developments. And the balance of nature itself is threatened by excessive use of pesticides.

The deterioration of our cities should also cause us to look back at the land; population dispersal in some form is a necessity. At the same time, there is a growing recognition that nagging social problems— burgeoning welfare rolls, racial tensions, the alienation of workers from their work—have not responded to treatment. Many of these problems have their roots in the land, or more precisely, in the lack of access to productive land ownership by groups who today make up much of the urban poor. Mexican-Americans, Indians and even some blacks are beginning to raise the point that more of America's land ought to belong to them. Given the dead-end nature of most antipoverty programs today, it is an argument worth listening to.

The schizoid character of American landholding patterns was first implanted during colonial days. In New England the land was divided fairly evenly among the many; in the South, mostly because of large royal grants, it was concentrated in the hands of the few. As a consequence, New England politics revolved around such institutions as the town meeting and the popular militia, while Southern society and politics were dominated in all aspects by the landed gentry. Jefferson warned that perpetuation of the large plantations would lead to the ensconcement of an "aristocracy of wealth" instead of an "aristocracy of virtue and talent," and even talked of freeing the slaves; but the plantation owners were hardly inclined to abdicate their privileged positions voluntarily.

With the winning of independence and the establishment of a national government, America had an opportunity to create a nation unfettered by the proclivities of European nobility. Men like Jefferson looked forward to a vigorous agrarian democracy, fostered by public education and a judicious distribution of the government's western domains. Then as now, however, politicians were less interested in promoting agrarian democracy than in making a quick buck. The history of the giveaway of America's public lands—hundreds of millions of acres over a century and a half—constitutes one of the longest ongoing scandals in the annals of modern man. Fraud, chicanery, corruption and theft were aplenty, but more scandalous was the lack of concern for the social consequences of uneven land distribution. Congress at times did enact such foresighted measures as the Homestead Act of 1962, but far more often it authorized the wholesale disposal of public lands to speculators rather than to settlers. And what Congress didn't surrender to the land hoarders, the state legislatures, the Land Office and the Interior Department usually did.

In the early nineteenth century, the typical speculator's gambit was to form a "company" which would bid for massive grants from Congress or the state legislatures, generally on the pretext of colonization. Once a grant was obtained—and it never hurt to be generous with bribes—the land would be divided and resold to settlers, or, more likely, to other speculators. The enormous Yazoo land frauds—in which 30 million acres, consisting of nearly the entirety of the present states of Alabama and Mississippi, were sold by the Georgia legislature for less than two cents an acre, and then resold in the form of scrip to thousands of gullible investors—was perhaps the most famous of these profit-making schemes. Huge fortunes were made in such swindles, often by some of the most respected names in government. The social consequences were not limited to the quick enrichment of a fortunate few. The issuance of vast tracts of land to speculators also had the effect of driving up land prices, thereby impeding settlement by poor Americans. And, since grants were not always completely broken up, they had the additional effect of implanting in the new territories of the South and West the pattern of large landholdings that persist to this day.

Texas landholding patterns, for example, date from this early period, though grants to the original American *empresarios* were made by Mexico rather than Washington. At first there was a rush to purchase and occupy Texas lands granted to Stephen M. Austin and others. After the initial "Texas fever" subsided, many immense and valuable estates remained intact, and could be acquired for a relative pittance. Today many of these enormous tracts are cotton plantations, cattle ranges or oil fields owned by wealthy individuals and corporations.

The concentration of land ownership in California, now the most productive agricultural region in the world, is perhaps most extraordinary of all. According to a 1970 study by the University of California Agricultural Extension Service, 3.7 million acres of California farmland are owned by 45 corporate farms. Thus, nearly half of the agricultural land in the state, and probably three-quarters of the prime irrigated land, is owned by a tiny fraction of the population. This monopolization didn't just happen; it was and still is abetted by federal and state policies.

Land in California originally acquired its monopoly character from the prodigious and vaguely defined grants issued by first the Spanish and then the Mexican governments. Upon California's accession to the union, the United States government could have incorporated these *latifundia*—still almost totally unpopulated—into the public domain, or ordered them divided into small farms for settlers. It chose, probably without much throught, to swallow them whole and to allow them to remain private. Almost immediately they fell prey to wily speculators and defrauders, who either bought out the heirs of the grantees or forged phony title papers and bluffed their way through the courts. Several of the original Spanish grants are embodied in giant holdings today; the Irvine Ranch (68,000 acres in Orange County), the Tejon Ranch (268,000 acres in the hills and valleys northeast of Los Angeles, 40 percent owned by the Chandler family, which publishes the Los Angeles *Times*), Rancho California (97,000 acres to the northeast of San Diego, jointly owned by Kaiser and Aetna Life), and the Newhall Ranch (43,000 acres north of Los Angeles).

The struggle for acquisition of the Mexican land grants was only the beginning of the empire-building period in California. For some reason American history books are filled with tales about the robber barons of finance and industry—the Rockefellers, Morgans, Carnegies and Harrimans—but almost always neglect to mention the great cattle barons of the West. At the top of any listing of the latter must certainly be the names of Henry Miller, James Ben Ali Haggin and Lloyd Tevis.

Miller was a German immigrant who arrived in San Francisco in 1850 with six dollars in his pocket, and amassed an empire of 14 million acres—about three times the size of Belgium—before he died. Starting out as a butcher, he soon realized that the big money lay in owning cattle, not chopping them into pieces for a handful of customers. He also recognized, in advance of other Californians, that water was far more valuable in the arid West than gold.

Miller's strategy was to buy up land along the rivers of California's central valleys, thereby acquiring riparian rights to the water. Then he would irrigate the river banks with ditches, providing his cattle with natural grasses on which to graze. Homesteaders further back from the river would lose their water and be forced to sell to Miller at dirt-cheap prices.

Miller had other tricks as well. According to Carey McWilliams' *Factories in the Field*, a large portion of Miller's empire "was acquired through the purchase of land scrip which he bought from land speculators who, a few years previously, had obtained the scrip when they, while in the employ of the United States as government surveyors, had carved out vast estates for themselves." At one point in his career Miller set out to acquire some dry grasslands in the San Joaquin valley under the terms, ironically, of the Swamp Lands Act of 1850. This was a law under which the government offered alleged swamp lands to individuals free of charge if they would agree to drain them. The law provided that the land had to be underwater and traversable only by boat. Miller loaded a rowboat onto the back end of a wagon and had a team of horses pull him and his dingy across his desired grassland. Eventually the government received a map of the territory from Miller, together with a sworn statement that he had crossed in a boat. Thousands of acres thus became his.[1]

On a par with Miller in deviousness and ambition was the team of Haggin and Tevis, a pair of San Francisco tycoons who, among other things, had interests in the Southern Pacific Railroad and Senator George Hearst's far-flung mining ventures. By the 1870's Haggin and Tevis had accumulated several hundred thousand acres in the San Joaquin valley from former Mexican grantees, homesteaders, the Southern Pacific Railroad and assorted "swamps." They fought bitterly for water rights to the valley's rivers, and, as Margaret Cooper has recounted in an unpublished University of California master's thesis, they were no strangers to fraud. Their empire-building was capped in 1877 by a masterfully engineered land-grab that must rank among the classics of the genre. Under the impetus of California's Senator Sargent, who was acting on behalf of Haggin and Tevis, Congress hurriedly approved the Desert Land Act, and the bill was signed by President Grant in the last days of his administration. The law had the effect of removing several hundred thousand acres from settlement under the Homestead Act. These lands, which were said to be worthless desert, were to be sold in 640 acre sections to any individual—whether or not he resided on the land—who would promise to provide irrigation. The price was to be 25 cents per acre down, with an additional $1 per acre to be paid after reclamation.

Needless to say, much of the land in question was far from worthless. The chunk of it eyed by Haggin and Tevis was located close to the Kern River, and was partially settled. A San Francisco *Chronicle* story of 1877 describes what happened next:

"The President's signature was not dry on the cunningly devised enactment before Boss Carr [Haggin and Tevis' agent in the valley] and his confederates were advised from Washington that the breach was open. It was Saturday, the 31st of March. The applications were in readiness, sworn and subscribed by proxies. . . . All that Saturday night and the following Sunday, our clerks in the Land Office were busy recording and filing the bundles of applications dumped upon them by Boss Carr, although it was not until several days after that the office was formally notified of the approval of the Desert Land Act."

Thus, by hiring scores of vagabonds to enter phony claims for 640 acres, and then by transferring those claims to themselves, Haggin and Tevis were able to acquire title to approximately 150 square miles of valley land before anybody else in California had even heard of the Desert Land Act. In the process, they dislodged settlers who had not yet perfected their titles under old laws and who were caught unawares by the new one. The *Chronicle* called the whole maneuver an "atrocious villainy" and demanded return of the stolen lands. A federal investigation followed, but Haggin and Tevis, as usual, emerged triumphant.

All this skullduggery would be of little contemporary interest were it not for the fact that the empires accumulated by the likes of Miller, Haggin and Tevis are still with us in only slightly different form; they have become the vast, highly mechanized corporate farms that monopolize California's best farmland and produce most of the fruit and vegetables and much of the sugar and cotton that America consumes. The fate of Haggin and Tevis' holdings is particularly interesting. In 1890, in order to perpetuate their empire beyond their deaths, the two entrepreneurs incorporated under the name of Kern County Land Company. Until the 1930s most of the company's vast acreage was still used for cattle grazing. In 1936 a copious deposit of oil was discovered beneath the company's lands, producing a colossal windfall for the heirs of Haggin and Tevis. Rather than pay taxes on the full amount of its oil earnings, the company began sinking them into irrigation pipes and sprinklers, thereby upgrading rangeland worth $25 an acre into prime cropland worth $1000 an acre, and later into orchards worth up to $4000 an acre. By 1965 a share of Kern County Land Company stock that sold for $33 in 1933 was worth (after splits totaling 40 for 1) $2680—and had paid $1883 in dividends. Finally, in 1967, Kern County Land Company was bought by Tenneco (of whom more in my next article).

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[1] Horace Greeley, who voted for the Swamp Lands Act, confessed later that he had been "completely duped. . . . The consequence was a reckless and fraudulent transfer of . . . millions of choice public lands, whole sections of which had not enough muck on their surface to accommodate a single fair-sized frog."

Meanwhile, the Civil War had led to the abolition of slavery, but not to the end of the plantation system. Thaddeus Stevens, leader of the Radical Republicans, proposed dividing the large Southern estates and giving to freed Negroes and landless whites forty acres and some cash. "Homesteads to them [Negroes]," he argued, "are far more valuable than the immediate rights of suffrage, though both are their due." This was too venturesome a proposal, however, even for the Radicals, and it did not get far in Congress. As a result, Negroes and poor whites in the South remained landless, and a century later a large Southern grower would tell a CBS newsman making a documentary on farm workers, "We no longer own our slaves, we rent them."

In other parts of the country Congress continued to squander the national patrimony with abandon. The railroads were granted 134 million acres, plus another 49 million by the states. Often the railroads would allow settlers to stay and improve the land, then evict them later and sell the upgraded property at a considerable profit. Congress did nothing to remedy such abuses. It was busy enacting—in addition to the Swamp Lands Act and Desert Lands Act—such giveaways as the General Mining Law of 1872 and the Timber and Stone Act of 1878. Under the latter, lumbermen and quarry operators acquired millions of acres at $2.50 an acre, largely by using the same "dummy entryman" technique that Haggin and Tevis had so advantageously employed. Under the former, landgrabbers were able to acquire large tracts of public land for purposes that had nothing to do with mining or even settlement.

Congress was not entirely blind to what was happening, and it did strike some blows for agrarian democracy, but these were to a considerable extent diluted or subverted by subsequent legislation and administrative betrayals. Under pressure from landless frontiersmen, Congress passed the Preemption Act of 1841, allowing families to settle on 160 acres of unsurveyed public land, with first right to purchase when the land was ultimately placed on sale. This was as far as Congress was willing to go at the time, since the South feared homesteading would undermine slavery. In 1962, however, with no Southerners sitting, Congress adopted the Homestead Act, partially as a reward for Union soldiers. The law stands as a milestone in the history of American land policy. For the first time, full title to public land was to be granted free of charge to actual settlers. A family could acquire up to 160 acres—one quarter of a square mile—if it occupied and improved the land for five years. It was a fine law in theory, but by the time it was enacted a substantial portion of the best land in America was already accounted for. Congress made things worse as historian Paul Wallace Gates has noted, by removing additional valuable acreage from homestead settlement—usually by giving it to the railroads, or, as under the Morrill Land Grant Act, to the states, who in turn sold it to speculators. Shoddy administration by the Land Office did not help matters either. Cattlemen and speculators, both large and small, made widespread use of the "dummy entryman" trick and other ruses to acquire holdings far in excess of 160 acres, and the Land Office lacked either the will or the ability to stop them.

By the turn of the century almost all the available land in America had been staked out by one interest or another, and many Populists and reformers were displeased with the result. The Great Plains states were, by and large, democratically settled, but the same could not be said for the South and West. Henry George described California as "a country not of farms but . . . of plantations and estates," and thought a single tax on land was the remedy. The social effects of maldistributed land were most readily seen in the impoverishment of tenant farmers and sharecroppers in the South, and the exploitation of Chinese and Japanese laborers in the West.

Almost providentially, however, an opportunity to correct the mistakes of the past and to open up new lands for homesteading presented itself. Thanks to modern civil engineering, the arid expanses of the West, once useful only for grazing, could be irrigated and turned into cropland. Much of the land beyond the Rockies could thereby be transformed into a kind of New Midwest, characterized by family owned and operated farms. The instrument of this transformation would be a massive federal reclamation program; the Reclamation Act of 1902 was its charter.

F. H. Hewell, first director of the federal Reclamation Service, explained the purpose of the Reclamation Act as "not so much to irrigate the land, as it is to make homes. . . . It is not to irrigate the land which now belongs to large corporations, or even to small ones; it is not to make these men wealthy, but it is to bring about a condition whereby that land shall be put into the hands of the small owner, whereby the man with a family can get enough good land to support that family, to become a good citizen, and to have all the comforts and necessities which rightfully belong to an American citizen." Theodore Roosevelt was more succinct: "Every [reclamation] dollar is spent to build up the small man of the West and prevent the big man, East or West, coming in and monopolizing the water and land."

Federal reclamation would bring about this democratic renaissance by using both a carrot and a stick. The carrot would be subsidized water; the stick was lodged in two crucial provisions of the 1902 Act—the 160-acre limitation, and the so-called residency requirement. The first provided that no person could receive federal water for use on more than a homestead farm of 160 acres; the second provided that water would be delivered only to "an actual bona fide resident of such land, or occupant thereof residing in the neighborhood." By attaching these twin limitations to its delivery of subsidized water, federal reclamation would, in the words of one of its sponsors, "not only . . . prevent the monopoly of public land, but . . . break up existing monopolies throughout the arid region."

It sounded confiscatory—indeed, almost revolutionary—but the large Western landowners could hardly complain. They had, in the first place, acquired their empires at prices that were scandalously low and through stratagems that were at best unethical and at worst illegal. Moreover, it was not as if Congress was about to drive them into unwilling bankruptcy. The law did not require them to accept federal water; it merely provided that, if they chose to sip at the public trough, they would, in due course, have to sell their lands in excess of 160 acres. Subsequent regulations established that they could receive subsidized water for ten years before parting with their excess holdings—a time span which allowed for enough farming profit to satisfy all but the greediest.

Nevertheless, the intended transformation of the West did not occur. Great dams were built, rivaling the pyramids of Egypt in their wondrousness; reservoirs were formed, and aqueducts constructed. By 1970 the Bureau of Reclamation spent almost $10 billion and irrigated nearly seven million acres. Yet land monopoly is more firmly entrenched in the West than ever; federal water has flowed and continues to flow in great quantity to the huge absentee-owned corporate estates that should, under the law, have been broken up and sold to small resident farmers. In the words of former Senator Wayne Morse, the wholesale, continuing violations of the 1902 Act constitute "a water steal reminiscent of the scandals" of Teapot Dome and the "great land frauds."

Nearly a century ago the San Francisco *Chronicle* warned: "The land . . . taken by two or three men is sufficient to afford homes and independence to hundreds of intelligent, industrious and honest settlers. It is this class that makes, as it is the other [land monopolists] that ruins a country. The confirmation of title to the monopolists means the transfer of ownership of the soil to a nonresident aristocracy, and its continued cultivation by a race of aliens and coolies. Let it be awarded to the settlers, and schools, roads, churches and general prosperity will ensue."

This and similar warnings went unheeded; the South and West developed as the *Chronicle* feared. Ownership of particular estates shifted hands over the course of several depressions, panics and booms, and in recent years the trend has been toward ownership by large corporations—often oil companies or conglomerates. But though the names have changed, the pattern of large landholdings has held steady throughout. A nonresident landed aristocracy—today composed of such diverse persons as Sen. Eastland and the directors of Tenneco—enjoy vast power.

Along with absentee ownership, racial exploitation became a way of life in the West, as it previously had in the South but as it never did in the Midwest. Chinese and Japanese field hands were succeeded by Hindus, Filipinos and Mexicans. The treatment of Japanese farmworkers is particularly instructive. For many years they were enthusiastically praised by California growers; they performed the most menial tasks with great skill and without asking favors (such as transportaiton and boarding) of their employers. Soon, however, the Japanese began leasing land for themselves—usually "useless" marsh or desert which they would reclaim and plant with rice or other crops. Through thrift and hard work, they even began achieving their ambition to own land. This was too much for the land monopolists, who succeeded in passing the Alien Land Act of 1913, designed to force the Japanese to sell their improved land to them.

Other effects of concentrated land ownership were as the *Chronicle* foresaw. Schools, shops and civic institutions never blossomed in those parts of the South and West dominated by giant landholdings. Enormous disparity of wealth and power is rarely conducive to widespread involvement in public affairs, and is even less so when large portions of the population are migrants, or are barred by one means or another from voting. Why, after all, should an absentee landlord spend his taxes on good public schools, when his own children go to private school and an educated work force is the last thing he wants?

What was not foreseen, was the impact that land monopoly would eventually have on American cities. If the Southern plantations and Mexican land grants had been broken up, if Western land had been distributed in limited-size parcels to actual settlers as generously as it was handed out in prodigious chunks to speculators, if the reclamation law had been vigorously enforced, it is doubtful that the cities would be as overcrowded and as beset as they are today. Blacks and landless whites would, in smaller numbers, have migrated to the cities, but they would not have been so ill-prepared had they descended from landowning farmers. They would have had dignity, schooling, some experience in public affairs, and perhaps saving enough to establish a foothold.

The question now is whether we are going to compound the errors and injustices of the past or remedy them.

[From the New Republic magazine, June 12, 1971]

LAND REFORM—II: THE VANISHING SMALL FARMER

(By Peter Barnes)

Yghish Bulbulian's face is weathered, his pace somewhat slowed. But when he looks back at what he has left for his son Berge and his grandchildren, Yghish Bulbulian is a proud man.

Born in Armenia at the end of the last century, Bulbulian fled his homeland during World War I when more than a million Armenians were slaughtered by the Turks. He arrived, penniless, in California and settled near Fresno, where a large colony of Armenians had gathered. For several years he worked as a field hand in the San Joaquin and Imperial valleys, managing to save a few pennies each payday. By 1929 he was able to scrape together $500 for a down payment on 20 acres, part of a homestead that was up for sale. He, his wife and son worked ten hours a day, seven days a week in the fields, and when they weren't working their own land they were hiring themselves out to others.

In 1943 Bulbulian added 30 acres to his farm, and every decade or so thereafter he added more. Today, he and his son grow grapes and currants on 150 acres; though he's 78, he still helps plant, irrigate and box his crop. His income has not been high, but there were enough good years to permit some amenities. Father and son now live in comfortable, well-furnished houses, and drive late model cars.

It's no rags-to-riches story, and Bulbulian is no Horatio Alger figure, but he is an example of the many immigrant farm hands who, through frugality and hard work, rose to become farm owners. Unfortunately, he represents a dying breed.

In the 1920s, when Bulbulian got to California, it was natural for field laborers to aspire to become small farmers. Today it is almost unthinkable. For the same 20 acres that Bulbulian bought 40 years ago for $500 down, an aspiring farmer now would need $12,000 down. Moreover, it would be pointless for him to buy only 20 acres; he'd need at least four times that to have a fighting chance. And while Bulbulian could make do, when starting, with two mules and a plow, his contemporary counterpart would require thousands of dollars worth of tractors, chemicals and other equipment. Little wonder that few persons without an inheritance or outside income are entering farming, or that the number of farmers of Bulbulian's size is rapidly shrinking.

US Department of Agriculture statistics tell the story: in 1950 there were 5.4 million farms in America; today the figure is around 2.9 million. As the number of farms declines, the average size of remaining farms increases: it's now over 380 acres, compared to 215 acres 20 years ago. And as agriculture steadily becomes more mechanized, it comes to be dominated by those who have capital—the most successful family farmers, and the giant corporations. Thus, in 1969, the largest 40,000 farms, representing less than two percent of the total number, accounted for more than one-third of America's farm sales.

These are the broad statistics. Behind them are the economic forces, abetted by government policies, which say to the small farmer: either get bigger or get out. The pattern is typically like this: a farm of 80 or 160 acres has belonged to a family for generations It is squeezed by rising local taxes, the high cost of farm equipment, and corporate competition. The old man dies or retires. What will the children do? To survive as farmers they must expand and mechanize. The other option is to sell, perhaps to a suburban developer, perhaps to another farmer who is expanding. The latter course is easier, and increasingly it is the one that is chosen.

The trend towards corporate farming greatly intensifies the pressures on the independent small farmer. This trend is strongest in the South and West, particularly in Florida, California, Texas, Arizona and Hawaii, where large land units have long been the rule. Big canners like Minute Maid, a subsidiary of Coca-Cola, and Libby-McNeill & Libby, own an estimated 20 percent of Florida's citrus groves, compared with less than one percent in 1960. Corporate farms in California account for 90 percent of the melon crop, 40 percent of the cattle sold, 38 percent of the cotton produced and 30 percent of the citrus fruits. Two conglomerates, Purex and United Brands, now control one-third of the green leafy vegetable production in the United States, and the list of other blue chips lately plunging into agriculture, according to the Agribusiness Accountability Project, includes Tenneco, Gulf & Western, Penn Central, W. R. Grace, Del Monte, Getty Oil, Goodyear, Monsanto, Union Carbide, Kaiser Aluminum, Aetna Life, Boeing, Dow Chemical and American Cyanamid.

Why are major corporations suddenly fascinated with farming, a business where profit margins are generally small? The motives are chiefly three: land speculation, tax dodging, and the development of integrated "total food systems."

Suppose for example that a company invests $1 million a year of nonagricultural earning in improving a large tract of farmland—by planting pear trees, say, or laying irrigation pipes. It pays no taxes on the $1 million, and can deduct from its remaining taxes the cost of caring for the trees until they bear fruit, and the depreciable value of the irrigation pipes. Then suppose, as is usually the case, that each dollar thus invested creates a corresponding increase in the market value of the land. Suppose further that the company sells the land to another corporation at the end of ten years. Its profit on the land sale is then approximately equal to the earnings it has invested over the decade—in this case, $10 million. However, these earnings are now in the form of capital gains, and are taxed at 25 percent rather than 48 percent. Thus, the company has made a multimillion dollar profit at the taxpayers' expense. Any income the farm may have produced during this period is frosting on the cake.

Many corporations have their eyes on farming for another reason: they see vast profits accruing to vertically integrated conglomerates that control every stage of the food production and distribution process from raw nitrogen to precooked souffle on the dinner table. They are aware of the fact—indeed, they are largely responsible for it—that profits in the food industry go increasingly to companies in the food *business* rather than to farmers: in 1969 only 33 cents out of every dollar spent on food went to farmers, down from 40 cents two decades ago.

No single company better exemplifies the corporate plunge into farming than Tenneco, formerly Tennessee Gas and Transmission. In addition to its oil, natural gas and ship-building interests, Tenneco controls over a million acres in California and Arizona, mostly as a result of its purchase in 1967 of Kern County Land Company. It also produces agricultural chemicals and owns J. I. Case, a manufacturer of farm machinery, Heggblade-Marguleas, a leading California farm management firm, and the Packaging Corporation of America.

Tenneco makes money out of its landholdings from all directions. First, of course, are the tax-privileged revenues from oil and gas that lie beneath the surface. Then there is land development, the ultimate stage in the speculative game. Tenneco has half a dozen major developments planned or underway in California. One is the Pine Mountain Club, a 3200-acre recreational community in Los Padres National Forest, about an hour's drive from Los Angeles. Another 6000-acre development on the outskirts of Bakersfield will include an industrial park, a shopping center, a golf course and a retirement community. One of the company's cleverest gambits was to donate 370 acres near Bakersfield for a new state college. (Lands for UCLA and the University of California at Irvine were similarly donated by large landholders.) According to Simon Askin, executive vice-president of Tenneco, the college "enhances the value of an additional 6500 acres of company land."

It is Tenneco's multi-faceted agribusiness operations, however, that cast the longest shadow over the small farmer's future. Tenneco's aim, says Askin, "is to accomplish integration from the seedling to the supermarket." The company is already far advanced along that road. It grows, on magnificently irrigated former Kern County Land Company farmlands, an enormous diversity of crops, including corn, potatoes, barley, sugar beets, cotton, almonds, grapes, oranges, lemons, peaches, pears and plums. For capital inputs it has its own agricultural chemicals and farm machinery. For processing and packaging it has a huge new plant near Bakersfield, more than six times as large as a football field. It is currently testing a brand name identification program which, it hopes, will make the Tenneco Sun Giant label a household word in foods.

Against this kind of competition, what chance does the small farmer have? He survives or fails on his crop income alone. He does not have the benefit of outside earnings, or the luxury of converting current income into future capital gains. He might wish to expand or to buy more equipment, but to do so he must use his own money, not the Treasury's. When local property taxes rise because of encroaching suburbia, the large corporation can absorb the increase as a hedge against future speculative profits. For the small farmer higher taxes simply mean a decrease in the income on which he must live. Nor can he recoup farming losses with profits from machinery, chemicals, processing, packaging or marketing. If he is not paid enough cash for his crop, he is wiped out, regardless of how profitable the other stages of food production might be.

Corporations have other advantages over small farmers, including access to credit. According to a Department of Agriculture study in 1966, corporate farmers are able to borrow nearly twice the proportion of their assets that family farmers are. Corporations also enjoy the government-sanctioned privilege of exploiting their employees to a degree unparalleled in any other industry. The federal minimum wage for farmworkers is $1.30 an hour—30 cents below the minimum paid to all other workers. And while it is a felony for ordinary individuals to harbor illegal aliens, it is not a crime for growers to employ them. Such laws as these not only abuse farmworkers; they also hurt the self-employed farmer who, in order to compete with the giant growers, winds up having to exploit himself.

Farming corporations receive further government aid in the form of subsidies. Among these are payments for reduced crop production. Since farmers with large landholdings are able to "not-grow" more crops than are farmers with small holdings, their subsidies are more generous. Charles Schultze, former director of the Budget Bureau, estimates the total cost of farm subsidies at $9 to $10 billion annually, the lion's share of which goes not to poor farmers, who need it, but to the corporate giants. Last year, the J. G. Boswell Co. of Calif. received federal subsidies totalling $4.4 million; Tenneco got

$1.5 million; the Florida-based US Sugar Company collected $1.1 million; the Delta and Pine Land Company of Mississippi bagged $814,000. A newly enacted $55,000 ceiling will reduce some of the largest handout this year, but the limitation has too many loopholes (for example, the ceiling is computed on a per crop and per nominal owner or lessor basis) to be effective.

Subsidies also come in the form of water, delivered to many farmers' doorsteps by federally-funded reclamation projects. The price paid by water users is well below the actual cost of delivering the water. Most of the cost of building dams and aqueducts is charged to the general Treasury and to hydroelectric power consumers.

In theory, federally subsidized water is legally barred from delivery to farms of more than 160 acres, and to all absentee-owned farms. In practice the law is widely violated, to the detriment of the family farmers it was intended to help. Thus, small farmers in California are now being hurt by the delivery of new water to lands owned by Tenneco, Getty Oil, the Tejon Ranch, Standard Oil of California and the Southern Pacific Railroad, among others. Production of fruits and vegetables from these heretofore arid lands will soon flood the market, thereby driving down prices. Much of the same fate awaits small farmers in the Pacific Northwest, where vast lands controlled by Boeing, the Burlington Northern, Utah and Idaho Sugar, and Amfac of Hawaii are about to receive federally-dammed water from the Columbia River.

Welfare is another indirect subsidy to large growers, though they're not inclined to admit it. It allows them to use laborers for a few months, then cast them aside, secure in the knowledge that they'll survive until the following year's work season, without having to be paid a living wage. On top of this are the millions spent by federal and state governments on agricultural research—a subsidy that no other industry enjoys. While some of this research helps the small farmer, the bulk of it is aimed at breeding crops and designing machines for large-scale farming.

What will be the future of American Agriculture? If present policies continue, the answer seems fairly obvious: the poor will be squeezed, the rich will be subsidized, and in the end only the biggest and best integrated operations will survive. The prospect pleases corporate moguls like Bank of America ex-president Rudolph A. Peterson, who has called for a program "to enable the small uneconomic farmer—the one who is unable or unwilling to bring his farm to the commercial level by expansion or merger—to take his land out of production with dignity." It terrifies small farmers, many of whom are no less different than their giant competitors, but simply less favored by government policies.

One version of what American agriculture may look like can be found in the February 1970 issue of *National Geographic*. Here are stunning photographs of an egg factory near Los Angeles where two million caged Leghorns gobble 250 tons of feed and lay one million eggs each day; a cattle metropolis in Colorado where 100,000 steers are fattened on formulas prescribed by computer; a $23,000 tomato harvesting machine, developed by the University of California, that snaps up specially bred tomatoes for farmworkers to sort while taped music purrs in the background.

These photographs of contemporary marvels are accompanied by an artist's depiction of an early 21st century farm (if that is the proper word) as foreseen by USDA specialists. All operations are monitored by one man from a bubble-top control tower. An enormous remote-control tiller rolls across a ten-mile-long wheat field on tracks that keep in from compacting the soil. Another gigantic machine automatically waters a ten-mile field of soybeans, while a jet-powered helicopter sprays insecticides. Alongside a monorail track stand a pair of skyscrapers for cattle. Behind them are several illuminated plastic domes containing controlled environments for growing strawberries, tomatoes and celery. A USDA expert outlines some other possibilities: hills will be leveled with nuclear energy in order to flatten extra-long fields; sensors buried in the soil will find out when crops need water, and automated irrigation systems will bring it to them; airplanes, computers and closed-circuit TV will be as common-place as tractors today.

A somewhat different vision of the future—not endorsed by the USDA—can be found in a gently sloping field near Watsonville, California. It focuses on human beings rather than technology, on giving present-day Yghish Bulbulians a chance to advance themselves rather than be cast into ghettos and *barrios*. Here on the edge of the Pajaro valley is a bustling new enterprise called *Cooperative Compensina*, a farming cooperative formed slightly over a year ago by four Mexican-American families, now expanded to twenty-five and still growing.

The economics of the cooperative are relatively simple. There are 140 acres under lease, with 80 planted in strawberries and 60 in zucchini squash. (Eventually all will be planted in strawberries.) To avoid hassles the land is divided among the members by lottery, with each family responsible for its own parcel. Strawberries were chosen as the principal crop because they provide a high return and are labor-intensive; there is no machine in sight that can pick them. Each acre of strawberries produces about 3000 trays per year, and each tray sells for about $3. Thus, one acre earns about $9000 a year. Expenses, not counting labor, come to about half that, so each family will earn about $12,000 the first year if all goes well, plus whatever additional income comes from the squash. The second year, when expenses are lower, they'll earn more. With four or five family members working steadily in the field, the earnings don't amount to much on an hourly basis—perhaps $1.20 per hour. But total family income will be two or three times what it was when they were hired laborers or sharecroppers. In addition they'll have equity in the co-op, and the satisfaction of being their own boss.

It wasn't easy to get the co-op started—the initial members had to scrape up $500 apiece, then look around for credit. The Farmers Home Administration, a federal lending agency, turned them down. Local banks, under pressure from a large local grower, were hesitant, but finally Wells Fargo came through with a $150,000 crop loan, to be repaid after the first strawberry harvest in 1972. An OEO-funded consulting firm, the Central Coast Counties Development Corporation, lent another $100,000, which will be repaid in three years. With $250,000 in hand, the co-op was able to purchase tractors, root stock and chemicals. Now it is in as good a position as the established growers, if not a better one; it's the only commercial strawberry producer in California that doesn't have to worry about labor troubles. By next year it will be marketing strawberries under its own *Cooperativa Campesina* label, and its members see no reason why within five or six years they can't become a dominant factor within the $60 million strawberry industry.

If the co-op prospers, its members don't plan to hoard the wealth. They intend to open up membership to as many poor families as the enterprise will support. "We have a saying in Spanish," says Refugio Pinedo, one of the founders and now secretary of the co-op. "*Aqua que no te tomas, dejala correr.* Water that you cannot drink yourself, let it run for others."

[From the New Republic magazine, June 19, 1971]

LAND REFORM IN AMERICA—III: THE CASE FOR REDISTRIBUTION

(By Peter Barnes)

It's hard for people in cities to appreciate the need for land reford in the United States. Most of us have been so cut off from the land that, through ignorance, we accept present landholding patterns as desirable or inevitable. They are neither.

What are the advantages of giving land to the few instead of the many? Efficiency is supposed to be the main one: big farms, we're told by agribusiness spokesmen, can produce more food at less cost and thus save the consumer money. That same thinking underlies Soviet collectives. What's overlooked is that in societies where tractors are relatively inexpensive to own or rent, economies of scale contribute to agricultural abundance only marginally. Beyond a certain point, there's nothing gained by having one vast farm in place of several smaller ones. In fact, small farms are often more productive per acre because their owners work harder and take better care of the soil.

Large farms in America *are* efficient at some things—they excell at tapping the federal Treasury and exploiting hired labor. Take away these privileges and the small farmer looks extremely good. As for saving the consumer money, the chief reason food prices have remained relatively low is not large-scale efficiency—it is intense competition. Allow a handful of agribusiness giants to gain control of the market and prices will assuredly rise a lot more than they have.

There is, furthermore, the question of how much efficiency, and what kind, is desirable. American agriculture is, if anything, too efficient; its chronic problem is not underproduction but surpluses: it is the only industry where people are paid *not* to produce. The argument that ever-increasing agricultural efficiency is a desirable national goal is, therefore, unsound. Moreover, what kind of efficiency are we talking about? When a large grower increases his profit margin by replacing farmworkers with a fancy new machine, he's not doing anybody but himself a favor. The farmworkers, now unemployed, drift to already overcrowded cities, where no jobs await them either. Welfare rolls and social tensions rise—transferring to society at large the ultimate cost of "efficiency" on the large farm.

If the advantages of large landholdings (except to those who own them) are scant, the harmful effects are legion. Several have already been noted: the impoverishment of millions of rural families, and the migration to cities of millions more, with little education or hope of improvement. We expect poor Americans to lift themselves up the economic ladder, yet by cutting them off from productive land ownership we knock out the bottom rungs.

The vitality of community life in rural America has also suffered because of maldistributed land. Main Street businesses are not appreciably aided by large absentee landowners who purchase their supplies in distant cities, or by underpaid migrants who buy nothing, or by sharecroppers forced to shop at the company store. A study in the 1940s by Walter Goldschmidt, a California sociologist, found that communities in small-farm areas have a more sizable middle class, more stable income patterns, better schools and more active civic groups than do communities where large landholdings predominate. A recent incident in Mendota, California—a town surrounded by large farms—helps explain why. A group of citizens wanted to establish a special taxing district for construction of a hospital, the nearest one being 40 miles away. Three agribusiness giants that owned more than half the land in the proposed district opposed the plan, and killed it. Two of the companies were based in other California cities, and the third—Anderson Clayton—was headquartered in Houston.

Protection of the environment also tends to be less of a concern to large corporations—who've been despoiling the American landscape for the better part of two centuries—than to small farmers who live on their land. Companies farming for tax or speculative reasons, for example, seek to maximize earnings over the short run. They can milk the soil, deplete the underground water supply or poison the land with pesticides, knowing full well that they will eventually sell. Resident farmers who hope to pass on their land to their offspring cannot be so careless with nature's gifts. Moreover, small-scale farming lends itself much more readily than does large-scale monoculture to biological pest control—a technique that must increasingly be adopted if we are to avoid ecological disaster.

If there's little to be said for large landholdings on social or environmental grounds, neither can it be said that they are inevitable. Land concentration in America, particularly in the South and West, is not the result of inscrutable historical forces, but of a long train of government policies, sometimes in the form of action; often of inaction. English grants to large landholders in the colonial South, and Mexican grants in the West, could have been broken up at several convenient historical moments, but were allowed to remain intact. Vast empires of public lands were given away in large chunks to speculators, rather than in small parcels to settlers. Tax and labor laws, reclamation projects and government-financed research, have encouraged large-scale corporate agriculture, to the detriment of independent small farmers and landless farmworkers. On top of all this have come the government's ultimate reward to big landholders: cash subsidies, mainly for being big.

Why, then, do we need land reform in America? About the only thing that can be said for large landholdings is that they exist, and in the spirit of free enterprise, ought to be left untouched. This is the strongest argument in favor of leaving things as they are. Land, however, is not like other forms of wealth in our economy, which we allow to be accumulated without limit: it is a public resource, it is finite, and it is where people live and work. Free enterprise does not merely imply the right to be big. It also implies the right to start. As corporate farms become increasingly integrated with processors and distributors, as they arvance toward the technological millenium in which ten-mile-long fields are sowed and harvested by computer-controlled machines, the right to get a start in agriculture will be obliterated—as it almost is today. Americans must decide whether they want the rich to get richer or the poor to have a chance. Agriculture is one of the few places where the poor can have a chance. If it is closed off, if the profits of the few are given precedence over the needs of the many, the consequences can only be unpleasant.

There are additional reasons why it's time to reform landholding patterns in the United States. Frederick Jackson Turner talked 70 years ago of the frontier as a "safety valve" for urban discontent. If ever the cities needed a safety valve, it is now. Urban problems are virtually insoluble; city residents seem on the verge of a mass psychotic breakdown. The exodus from the countryside must not only be stopped, it must be dramatically reversed.

One approach to the problem of population dispersal is to build new communities on rural lands now owned by speculators. This will undoubtedly happen, but it's far from enough. It is much more important to revive existing rural communities, and to do so by enabling greater numbers of people to live decently off the land. There is no shortage of people who want to remain on the land, or return to it, if they could do so at higher than a subsistence level. Many Mexican-Americans, blacks and Indians would be among them. So would many whites who have become drained, physically and spiritually, by city living. The difficulty is that the frontier is long gone. That's why reform, as opposed to the giving away of unsettled land, is essential.

Land reform is also needed to increase the number of people in the United States who are free. This may sound silly in a country that presumes to be a breeder of free men. Yet ever-increasing numbers of Americans are not really free to assume responsibilities or to make major decisions affecting their lives. They work for large corporations or government bureaucracies or on assembly lines. They are not their own bosses, not proud of their work, and not motivated to exercise their full rights as citizens. Farming has traditionally been a bastion of the independent small businessman who won't take guff from anybody and who prides himself on the quality of his work. But now farming, too, is becoming computerized and corporatized. Its executives wear silk ties and share the attitudes of other wealthy executives; its workers are powerless, dispensable hirelings. If agriculture goes the way of the auto industry, where will our independent citizens come from?

American land policy should have as its highest priority the building of a society in which human beings can achieve dignity. This includes the easing of present social ills, both rural and urban, and the creation of a lasting economic base for democracy. A second priority should be to preserve the beauty of the land. Production of abundant food should be a third goal, but it need not be paramount and is not, in any case, a problem.

To achieve these goals a multitude of reforms should be carried out. First and most importantly, small-scale farming must be made economically viable, so that present small farmers can survive and new ones get started. Unless it is done, there is no point in changing landholding patterns to favor smaller units.

There's no secret to making small-scale farming viable; it can be accomplished by eliminating the favors bestowed upon large farms. Federal tax laws that encourage corporate farming for tax-loss and speculative purposes should be changed, even if this means closing the capital gains loophole. Labor laws should guarantee a minimum wage to farmworkers equal to that of other workers, and should make the knowing employment of illegal aliens a crime punishable by imprisonment. This would put an end to one of the large landholders' major competitive advantages—their ability to exploit great numbers of poor people—and allow self-employed farmers to derive more value from their own labor.

Subsidy programs, too, should be revised to the disadvantage of big growers. When farm subsidies began during the New Deal, they were intended to help the impoverished small farmer. But because they were pegged to total marketings and total acreage rather than to personal income, they wound up lining the pockets of the wealthy. If farm subsidies are continued—as they should be in order to stabilize farm income—they ought to be strongly weighted in favor of smallness. No farmer should receive subsidies for crops grown (or not grown) on land in excess of a certain acreage, and paymentts should be graduated downward, somewhat like an income tax in reverse.

(Per unit payments to individual farmers should decrease, in other words, as the number of subsidized units increases.) Alternatively, subsidies could be completely detached from crops and related to income instead. Farmers could sell on the open market, with federal payments making up the difference, if any, between earnings and a minimum livable income.

Also essential to the future viability of small-scale farming is some protection against conglomerates. There is no way a small farmer can compete against an oil company, or against a vertically integrated giant like Tenneco which not only farms tens of thousands of acres but also makes its own farm machinery and chemicals, and processes, packages and distributes its own foods. Such conglomerates aren't hurt by a low price for crops; what they lose in farming they can pick up in processing or distributing or, for that matter, in oil. The small farmer, on the other hand, has no outside income and no tolerance for soft spots. What he needs is legislation that would prohibit corporations or indiviuals with more than $50,000, say, in nonfarming income from engaging in farming—in effect, a forceful antitrust policy for agriculture.

Once small-scale farming is made viable, the second major area for change involves redistribution of land—the kind of peaceful social restructuring that the United States imposed upon Japan after World War II and has urged upon dozens of other nations in Asia and Latin America.

The guiding principles behind redistribution are that land should belong to those who work and live on it, and that holdings should be of reasonable, not feudal proportions. These are not revolutionary concepts; America recognized them in the Pre-emption, Homestead an Reclamation Acts, and is merely being asked to renew that recognition.

A convenient place to start is with enforcement of the Reclamation Act of 1902, which provides that large landholders in the West who accept subsidized water must agree to sell their federally irrigated holdings in excess of 160 acres at pre-water prices within ten years. The Reclamation Act has never been properly enforced for a variety of reasons. One is that, through one stratagem or another, large landholders have escaped having to sell their excess lands. Another is that even in the few cases where large landowners *have* agreed to sell, their prices have been so high, and terms so stiff, that only the wealthy could afford to buy. Occasionally, as in parts of the San Joaquin valley at the moment, prewater prices as approved by the Bureau of Reclamation are so out of line—higher, in fact than prevailing market prices—than even wealthy persons have not seen fit to purchase excess lands put for sale under the law.

To assure not only the sale of excess landholdings, but also their availability at prices that person of limited means can afford, Rep. Robert Kastenmeir (D. Wisc.), Jerome Waldie (D, Calif.) and others have introduced legislation that would authorize the federal government itself to buy up all properties in reclamation areas that are either too big or owned by absentees. The government would then resell some of these lands, at reasonable prices and on liberal terms, to small resident farmers, and retain others as sites for new cities or as undeveloped open space. The plan would actually earn money for the government, since the lands would be purchased at true pre-water prices and resold at a slight markup. The money thus earned could be used for education, conservation or other purposes.

Other plans for enforcing the Reclamation Act are worth study. For example, the federal government could purchase irrigated lands in excess of 160 acres and lease them back to individual small farmers or to cooperatives. Or it could buy large landholdings in reclamation areas with long-term "land bonds," which it then would redeem over 40 years with low-interest payments made by the small farmers to whom the land was resold. This would amount to a subsidy for the small farmers who bought the land, but it would be no more generous than the current subsidy to large landholders who buy federal water.

Of course, land redistribution should go beyond the Western areas served by federal reclamation projects; in particular, it should reach into the South. Thaddeus Stevens old proposal for dividing up the large plantations into 40-acre parcels is unrealistic today, but an update plan, with due compensation to present owners, can be devised an implemented.

Another objective toward which new policies should be directed is preserving the beauty of the land. Reforms in this area are fully consistent with a restructuring of landholding patterns. Thus, a change in local tax laws so that land is assessed in accordance with its use would benefit small farmers and penalize developers. Zoning rural land for specific uses, such as agriculture or new towns, would similarly help contain suburban sprawl and ease the pressure on small farmers to sell to developers or speculators. If as a result of new zoning laws the value of a farmer's land was decreased, he would be compensated for that loss.

An indefinite moratorium should also be placed on further reclamation projects, at least until the 160-acre and residence requirements are enforced, en even then, they ought to be closely examined for environmental impact. Schemes are kicking about to bring more water to southern California and the Southwest from northern California, the Columbia and even Alaska. These plans ought to be shelved. Federal revenues that would be spent on damming America's last wild rivers could, in most cases, be more fruitfully devoted to such purposes as redistributing croplands.

Policy changes in other areas should complement the major reforms outlined above. Existing farm loan programs, for example, should be greatly expanded so that new farmers can get started in agriculture. Farming cooperatives, which can be a starting point for workers unable to afford an entire farm, should be encouraged through tax laws and credit programs. Research funds spent on developing machinery for large-scale farming should be rechanneled into extension programs for small farmers and co-ops.

It won't be easy to enact any of these reforms. Friends of large-scale agribusiness are strategically scattered throughout the Agriculture, Interior and Appropriations committees of Congress, and are equally well ensconced within the Nixon Administration. Small-farmer associations like the Grange, the National Farmers Union and the National Farmers Organization don't have nearly the clout of the American Farm Bureau Federation, the big grower associations and the giant corporations themselves. The pro-industry land policy "experts" who formed the Public Land Law Review Commission that reported its findings last year were no friendlier to small-scale farming: they recommended repeal of the Reclamation Act's 160-acre limitation and residency requirement, and adoption of policies favorable to large-scale mechanized agriculture.

Nevertheless, there are some grounds for optimism. Many citizens and public officials are coming to realize that rural America ought to be revived, cities salvaged, welfare rolls reduced, and they see that present policies aimed at achieving these objectives are not working. Environmentalists who for years have pointed to the dangers of intensive agriculture and the need for prudent rural land use, are finally getting an audience. The list of organizations that have recently urged vigorous enforcement of the 160-acre limitation includes the AFL-CIO, the Sierra Club, Common Cause, the National Education Association, the Grange and the National Farmers Union. That's not enough to sweep Congress off its feet but it's a good start.

The ultimate political appeal of land reform is that it places both the burden and opportunity of self-improvement upon the people themselves. It can give hundreds of thousands of Americans a place to plant roots, and a chance to work with dignity. Can we deny them that chance?

Senator STEVENSON. Our next and final witness is Mr. Sheldon Greene, general counsel for California Rural Legal Assistance.

STATEMENT OF SHELDON L. GREENE, GENERAL COUNSEL, CALIFORNIA RURAL LEGAL ASSISTANCE

Mr. GREENE. I thank you, Senator Stevenson.

With the departure of Senator Taft, I am beginning to feel, as the final witness, like the band that plays as the audience leaves the stadium at the end of the ball game. You never remember what songs they are playing.

Senator STEVENSON. I can assure you that we will remember those songs. I think we are all beginning to fade, though, after 3 long days.

Mr. GREENE. It can be said, I suppose, about the last speaker that everything that is worth saying has already been said and anything that is left unsaid need not be said. But perhaps there are some worthwhile statements that might be made by way of synthesis, as well as augmenting the record with some things that you don't as yet have.

I think these hearings tend to shatter some notions that the general public have, reducing them really, to palaver. One of these is the representation that bigness is equated with efficiency, because the committee has learned irrefutably, I would say, that the most efficient economic unit of production is the small farmer.

In my testimony, which I trust you will have an opportunity to peruse, I referred specifically to some studies that were made by agricultural economists that verify that point. I have given citations to these specific studies and have given references to the points.

Another shibboleth that has been bandied about has been that the real problem in rural agriculture is the conflict between the farmworkers' insatiable demand for more money and the small farmer. That if only these two conflicts can be resolved in favor of the farmer, all things would be well.

As a matter of fact, these hearings have disclosed that the only difference between the conditions of the family farmer in agriculture and the farmworker are the respective extents of their indebtedness. Both of them are in hock. One of them perhaps is in hock for land and the other for automobiles and the cost of food and clothing for his children. Aside from that, they seem to be about the same.

It might also be said by those who want to make a differentiation that, of course, the small farmer, the family farmer, is independently superior because he has a piece of land. When we consider the extent of his indebtedness and when we consider the earnings which can be derived from family farmings, despite its efficiency, the prudent investor is apt to put his money in a savings bank and earn more than he would earn by investing and taking all that trouble. So really he does't have any more than that farmworker who works beside him. Indeed, the existence of the family farmer and the farmworker, the fact they are synonymous in their predicament, is summed up in this ketsup bottle (indicating). It is produced by Del Monte, which is a very prominent, vertically integrated company. It costs 35 cents to the consumer, and the amount of tomatoes in there is equivalent to 1 or 2 cents for the farmer. And, of course, the farmworker's income out of that is only a small fraction. Nevertheless, both of them are caught between two bricks, one of which is cost that they can't control and another is a market that they can't control. Related to that also is the question of credit that is limited and that they also can't control.

Aside from that, I would just like to disagree a moment on the unique circumstances of the farmworker. You have heard that the farmworker's wages are one-half the annual industrial average. Now, there is a reason for that. Despite all the rationalization, perhaps the principal reason is that the family farmer is so pushed and his average hourly earnings are so negligible, as well as the illusory return on his investment, that he wants to really pass on his poverty to the farmworker. He can't see the farmworker working for more in the field than he is earning, and so he pushes the farmworker and he tries to squeeze him as the only cost component that he can control in his production.

In fact, the reason why in California there are so many illegal entrants in agriculture partially is attributable to that circumstance. It is sad that the farmer, with the cooperation of the Federal Government, is creating a market surplus of farm labor in order to depress the wage which the farmworker might normally obtain. You asked earlier what the cost of this was and what the extent of it was, and I prepared testimony on the subject which is submitted for the record. But I can summarize very briefly.

Initially, you should remember that over a hundred thousand illegal entrants were apprehended in the State of California in 1971. At the same time there were 60,000 families of unemployed wage earners who were receiving public assistance at a cost to the taxpayer of about a hundred million dollars. At the same time up to 7.4 percent of the California labor force was unemployed, representing about 600,000 in number.

When we relate the hundred thousand apprehended as against those who were not apprehended, we come to an illegal entrant labor force of 3 to 400,000 workers which conservatively has deprived the poor, the unemployed, the farmworker of possibly $300 million in income, annually.

You asked about the Farm Labor Service previously in this hearing. I have testimony from Mr. Gnaizda, Robert Gnaizda, who is not able to be here today, who mentions the Farm Labor Service, saying it is really conceived for the employer rather than the employee.

I think his suggestion is that it could be eliminated. Certain farmers have concurred in this. But the reason why it is unnecessary is the fact that the Immigration and Naturalization Service, through its policies with the illegal entrant and the commuter alien, is, in fact, the Farm Labor Service for California agriculture. As a matter of fact, rather than a gate, more appropriately a revolving door should be installed on the border considering the policies that apply.

I am frustrated to say that there are many anecdotes, many specific examples I could relate, the most blatant of which is another phase of this hearing, that is, the arrogant avoidance of specific chapter and verse in the statutes of this land by a public agency which is, on paper, subservient to the legislative will.

Those specific examples, the immigation law, its intent, specific language of it, the language pertaining to the commuter alien, all of these things have been ignored as have court actions been ignored by an agency which has set up its own priorities.

As I say, these elements are related in detail in that testimony.

(The statement referred to of Robert Gnaizda follows:)

THE FEDERALLY-FUNDED, GROWER-ORIENTED FARM LABOR SERVICE: A QUARTER OF A BILLION GIFT FOR LAWBREAKERS

Testimony before Committee on Labor and
Public Welfare,

United States Senate

January 11, 1972

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THE FEDERALLY-FUNDED, GROWER-ORIENTED FARM LABOR SERVICE: A QUARTER OF A BILLION GIFT FOR LAWBREAKERS

Over the last decade the U.S. Government, through its agricultural subsidies not to produce crops, has provided growers such as United Fruit with almost thirty billion dollars ($26,859,000,000). And individual growers such as J. G. Boswell of Corcoran, California have received more than twenty million over the last decade not to produce anything.

The result has been to raise the unemployment rate of farm workers to an estimated 25%, to abolish small farmers at a rate of more than one hundred thousand a year, and to raise the cost of basic staples necessary to the survival of the unemployed farm worker and small farmer. All this has been done in order to ensure that fertile land remains barren.

At the same time, we have experimented with almost one billion dollars ($956,000,000) to counteract this non-production program through expensive reclamation projects that insure that barren land becomes fertile in order to ensure that fertile land remains barren.

It is a rare individual that would have the temerity to suggest that he could devise a program that is more counterproductive or harmful than the above. Although I am not personally capable of devising a program more absurd, the United States Labor Department does, in fact, operate and has operated for more than three decades a program that is more counter-productive. It is commonly known as the Farm Labor Service. It is 100% federally-funded, at a cost of almost a quarter of a billion dollars over the last decade.

The ostensible purpose of the Farm Labor Service is to provide the "best jobs" available for farm workers in accordance with applicable health and safety codes. In fact, its grower-controlled and oriented staff provides the best workers at the lowest wages to the worst growers, those growers who, due to artifically low wage rates, are unable to compete in the open marketplace for labor.

The result of this grower capture of a migrant oriented program is to make the federal bureaucracy an unwitting ally of those growers who are most likely to encourage the perpetuation of the migrant's cycle of poverty. The cost to the migrant is an estimated loss of at least one hundred million dollars per year in wages.

An examination of California's best farm labor office, according to testimony submitted to a federal court in 1970(1), documents the federal government's complicity in providing a grower subsidy under the guise of a migrant-oriented program.

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(1) 250 Farmworkers v. Shultz (N.D. Cal, 1970)

1978

According to the deposition on file with the federal court of the Manager of the Sonoma County, California Farm Labor Service:

1. "The primary and major purpose of the Farm Labor Service Office is to harvest the crops." (Dep. p. 208).

2. None of the 15 employees speak any Spanish, although as much as 60% of the workers placed are Spanish-speaking only. (Dep. pp. 21-3).

3. Most of the basic staff are growers or married to growers and they frequently refer workers at unspecified wages to their own ranches without guaranteeing that they are provided toilets or drinking facilities as required by state law. (Dep. pp. 257-261).

4. Even if as many as 1,000 documented farm worker complaints are filed against a particular grower who refuses to provide toilets and drinking water, workers are referred to the grower. (Dep. pp. 135-8).

5. The office has a "blacklist" of troublesome farm workers but does not have a "blacklist" of troublesome growers. (Dep. pp. 128-133).

6. Even if workers are not paid the wages they are promised, the office refuses to verify worker complaints. (Dep. pp. 60-62).

7. The office never has and is not now providing any counseling, testing or upgrading of any farm workers despite federal regulations requiring this. We refuse because no Farm Labor Office in this state ever has. (Dep. pp. 219, 222-3).

8. Although California farm workers [37,500 per year] are injured by excessive use of dangerous pesticides, the office does not require or even ask growers to provide any pesticide or protection information. (Dep. pp. 156-167).

9. The office frequently meets with local growers. It never has met with any farm workers or visited any farm workers. (Dep. pp. 82, 139-141, 115-6).

10. The office gives equal weight to all types of jobs. A referral for a one hour job is given the same attention and statistical weight as a three month job. (Dep. p. 171).

11. Even though one of our satellite offices listed

1,073 farm worker referrals in September, 1969, we actually produced only four "regular placements of farm workers". (Dep. pp. 236-237).

12. The official office statistics for 1969 show more than 30,000 office contacts. An office contact includes a worker coming to the office to use the toilet. In terms of jobs developed that were not otherwise available, our fifteen man staff, at a cost of over $100,000, produced only nine such jobs last year. (Dep. Ex. 2-13).

The only justification for a federally-funded institution that sends the best workers to the worst growers and costs these workers more than one hundred million dollars in wages per year, is that it produces jobs that would otherwise not be available. The official Farm Labor Service statistics for the state that allegedly produced the most jobs conclusively refutes this. It shows that the Farm Labor Service's secondary role is to produce statistics rather than jobs in order to complement its primary role of subsidizing growers who are unwilling to compete in the marketplace. These statistics show the following:

1. In 1966 the California Farm Labor Service alleged that it placed 134,000 farmworkers. In 1968 it alleged it placed 1,400,000. This constitutes a tenfold increase in two

years. The total agricultural jobs in the area decreased by 25%, however. (Calif. Stat. Abstract, 1969, at 46).

2. By 1969 the alleged number of job placements rose to 1.7 million or seven times the total number of agricultural workers in California at peak agricultural period. (Calif. Farm Labor Service Statistical Report).

3. In 1969 one tiny border office "produced" 463,000 job placements. The population of the town is 9,000 and the total American population within 50 miles is 70,000. (Ex. 198).

4. In 1969 one moderately-sized Farm Labor Office in northern California had 30,000 office contacts. Anyone asking to use the toilet constitutes an office contact, according to the office manager. (Ex. 197).

5. If a father and his seven children are referred to a different job on 250 consecutive days, they will count as 2,000 job placements (8 x 250), according to the Farm Labor Service. (Ex. 197).

6. If a father and his seven children are sent to a job 100 miles from home for one hour they will count as eight job placements. (Ex. 197).

7. If a father and his seven children on the dayhaul are referred to the same grower for 100 consecutive days, it will count as 800 job placements. (Ex. 197-198).

8. If one hundred workers are referred to a grower who refuses to pay the minimum wage and are fired within an hour for requesting the minimum wage, and another group of one hundred workers is referred out the same day, that will constitute 200 job placements. (Ex. 197).

9. If a grower on a daily basis fires the twenty workers referred by the Farm Labor Service, because they demanded the minimum wage, and the Farm Labor Service replaces them daily for forty days, that will constitute 800 job placements. (Ex. 197).

10. If a migrant family of ten uses the dayhaul system for 200 days, they could be responsible

for the retention of one full time Farm Labor Service employee. (Ex. 197-199).

11. Out of a 463,000 job placements in Imperial County in 1969, the Farm Labor Service secured the names of only 530 workers, or one-tenth of one percent. (Ex. 198).

By 1980 the combination of direct agricultural subsidy programs that encourage the non-production of crops, mechanization and Farm Labor Service anti-worker policies may reduce the migrant worker force to less than 10,000. However, based on the inverse correlation between actual jobs available and Farm Labor statistics, the number of job placements produced by the federally-funded Farm Labor Service by 1980 could well rise to one billion, or more than four job placements for every man, woman and child in this nation.

Many former Farm Labor Service personnel have contended that the Farm Labor Service actively encourages, in order to inflate statistics and satisfy growers, Grapes of Wrath conditions:

> "The Farm Labor Office has made it a policy over the years through radio, TV announcements, and various news releases to recruit a large number of workers for a small number of jobs. In other words, the Farm Labor offices engage in over-advertising and produce results that compared to those in The Grapes of Wrath when thousands of workers drove hundreds of miles for a small number of jobs and were therefore forced to

> compete with each other thereby lowering wages for all." [Testimony of Frank Valenzuela, former Salinas area Farm Labor Service employee and Mayor of Hollister, California.]

There is one fundamental difference, however, between The Grapes of Wrath conditions that existed in the '30's and those that exist today: In the '30's those growers who wished to exploit the farm worker did so on their own and generally in opposition to federal policy. Today, growers continue these practices with the active support of a federally-funded Farm Labor Service staff of 4,000.

Over 1,500 pages of documentation submitted to the Secretary of Labor on April 22, 1971 allege that migrant workers "all across this nation despise the Farm Labor Service, believe it is their enemy, recognize that it is a primary stumbling block to employment advancement and self-respect, and desire its termination."

You may ask exactly what then enables a federally-funded institution that produces statistics rather than jobs, lowers the wages of its primary beneficiary, and serves primarily those growers who violate the law to survive. Perhaps, the efforts of this honorable Senate Committee will make it unnecessary for migrants and their representatives to ask this obviously absurd question again.

Respectfully submitted,

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Mr. Greene. The solutions, then, are conceptually simple. If we can create a climate through legislation and through the enforcement of existing laws which will provide and insure a fair return for the efficient family farmer, one that is commensurate with the return on his investment, with the return on labor, in urban areas we could reverse this trend. If we provide increased gain for the family farmer, it follows we must provide a similar salary improvement which is commensurate with the rising productivity for the farmworker.

We are suggesting a number of specific provisions which will eliminate the unfair competition which the conglomerate and the syndicate are now milking out of our laws; correspondingly, specific assistance to the farmworker and to the family farmer.

Initially, what has to be done is to modify the tax laws. To simply state it, take away the gain which people are deriving out of their tax losses. I have enumerated several specific tangible ways in which this can be done. I will be happy to dwell on them if the Senator is interested. They are enumerated in the written testimony.

Senator Stevenson. I think if they are in the testimony, Mr. Greene. I will put the whole statement in the record. You have two statements, if I am correct?

Mr. Greene. That is correct.

Senator Stevenson. We will enter them both in the record at the end of your testimony and I assure you we will give them our careful consideration.

Mr. Greene. Very well.

I would like to elaborate on several of the suggestions, however, and I think perhaps I won't go into the tax suggestions. You will have an opportunity to read them. I am sure there is nobody else who is paying attention at this late hour.

The way for the family farmer and the farmworker to derive income is to focus on the family farm as a basic efficient unit and also to provide the technical assistance, the seed money, and the credit resources which both the farmworker and the family need if the farmworker, particularly, wants to transfer from farm work into a proprietary state.

There are a number of specific suggestions which would curb oversupply, overproduction, which would give the former better control of the market than he now has.

One of the ones that we suggest is national marketing boards. We suggest that the credit of the United States government be extended, as a loan guarantee, to the small farmer so that he is on a par with larger farms who have more credit at their disposal.

We suggest that, consistent with Mr. Barnes' testimony——

Senator Stevenson. Let me interrupt at this point if I may.

As a result of your experience, do you have any opinion about the availability of federally-guaranteed loans to small farmers now in California? There are such programs on the books already.

Mr. Greene. There are federally-guaranteed loans to small farmers. The Farmers Home Administration is supposed to be administering them.

Senator Stevenson. The S.B.A. also has authority to make and to guarantee such loans.

Mr. GREENE. The Small Business Administration?

Senator STEVENSON. Yes.

Mr. GREENE. I am not familiar with the S.B.A.'s engagement in the field of small agriculture, because, really, the statutes provide the family farms should be served by the Farmers Home Administration. I think they are relatively conservative bankers. They are not fulfilling the original intent to provide loans to the hard core, the people who are in trouble.

But, unless you resolve the problem broadside, rather than piecemeal, and unless you create the conditions which are favorable to small farmers getting together in aggregate co-ops, giving them control over the market, to minimize the tendencies of overproduction, I think you are really not helping by infusing just a little bit more credit into a sinking boat. That is just putting a cork in a leak. You have to approach it from a much broader standpoint.

I think that assistance to the farmworker—to elaborate on a point that I made briefly—ought to go beyond just the conversation about minimum wage. If the small farmer once gets a fair return on his investment, on a par with city earnings, it goes without saying that Federal legislative policy should be striving to provide for the farmworker, not simply a minimum wage that is half the industrial average, but a wage minimum which is the mean of the industrial average itself.

Picture this long chain, this long delivery chain, that relates back to that bottle of catchup. At one end we have cashiers in air-conditioned Safeway supermarkets earning $5 an hour. At the other end, in 110-degree heat in the Imperial Valley, back bent, with a short hoe, we have a farmworker earning $1.70 an hour 5 months of the year, without unemployment compensation.

I would suggest that that example, when taken with all the others, that you have seen today, illustrates the thing that is wrong with the whole approach that the Government has taken to the agricultural economy, that is, that those who don't need subsidies are getting all the subsidies from the taxes, and indirect subsidies, such as water.

I think the water issue can be focused just by looking at the map that was presented by Mr. Pefford, I believe, of the California Water Project, a project that is going to cost the State of California $9 billion over its entire term, which is going to serve Kern and Kings Counties in the San Joaquin Valley. I think that the Senator recalls who owns Kern and Kings County. These are not counties with predominant small holders. They are rather owned by the Southern Pacific Railroad; Tenneco, who now owns the Kern County Land Company; Mr. Boswell, who owns most of Kings County; the Salyer Land Co., which owns the rest of it, and the Los Angeles Times, which owns, as you recall, some 160,000 acres of Kern County.

This incredible $9 billion expenditure was made by the State of California for no other reason, considering the existing available irrigable land and the demands which the market wts imposing on agriculture, than the fact that, had they accepted Federal water out of the San Luis project, the 160-acre limitation would have come with it.

That is a pretty big subsidy for companies that don't need subsidization.

Senator **Stevenson**. This is something of an overstatement. There will be many other beneficiaries of that water, including many city dwellers.

Mr. **Greene**. I think that the evidence also reflects, Senator, that the city, Los Angeles, didn't require the water, and that the basic beneficiaries, as was indicated, were these Kern County and Kings County water users, who are going to get it, incidentally, at the price of a subsidy within a subsidy, not the amortization of the whole water project price of $35 a square foot, but $3.50 a square foot, the simple price of transporting the water.

As a lady from Los Angeles said, the Los Angeles people don't want the water or the burden of paying for it out of their district. They are going to have to pay $35 an acre-foot.

On the subject of water, just briefly, I am going to have to wear as many hats as Pooh-bah, because I am winding up, I would like to really personify the testimony of Mr. Gianelli, Mr. Brody and Mr. Pafford, who rather unusually represented that the Federal Reclamation Department was construing the laws perfectly well and that, in fact, to their judgment, the law that required a man to reside on his land before he could receive water had been repealed at some time in the past. Those statements were made looking you square in the eye.

I have, rather, Judge Murray's decision in the case of *Yellen* v. *Hickel*, which has been previously referred to. Judge Murray is a midwestern judge who was sitting on the bench as a guest. You will recall that Judge Murray affirmed the residency laws.

I would like to quote from that and then proffer this opinion into the record. Mr. Brunwasser, who represented Mr. Yellen in the case, is not present.

On page 3 he says, ". . . and no water shall be sold to anyone not occupying the land or residing in the neighborhood." He is alluding to section 5 of the Reclamation Act which was passed in 1902.

On the same page he says, "The plain language of the Omnibus Adjustment Act of 1926 does not repeal section 5 of the 1902 Act"—the residency section—"nor is any legislative intent to do so exhibited in the act's background."

Now, I submit to you, Senator, that that explanation of the reluctance of the Federal agency to apply a basic provision of land reform, because it was disagreeable to the powerful interests in this State, characterizes the whole explanation and apology for this boondoggle.

At the other extreme, you have been treated to 3 days of illustration of the principle, that those who need the subsidies, those for whom the subsidies were intended by the Congress of this country, aren't getting them and have never gotten them. That is the paradox that is presented by these hearings.

In fact, there are two different economies in California agriculture today. One of them is based upon turning losses into gains and the other is based upon attempting to eke a living out of agriculture by people who have no other choice. In characterizing the remedies, that consideration certainly has to be paramount to reverse the role of the subsidies, so that they tend to affect affirmatively those people who have no choice and who have the desire to live, work, and earn a decent living out of the land.

If I might, I would just like to return to a couple of other suggestions, and these are not the immediate changes which might be made in governmental policy or the immediate legislative reforms which are so desperately needed to avert the impending disaster which these hearings so dramatically have, I think, reflected to you and to Senator Taft.

It seems that the Congress has to go beyond, after rectifying, redressing the imbalance which exists, it must go on and make a survey of all agriculture in the United States, and out of this survey it has to figure out what is the best use of the land. Some of this has already been done by agricultural economists. The survey should be national in scope, just as the market, and the distribution is national.

Senator STEVENSON. What do you mean by survey?

Mr. GREENE. I am suggesting that agricultural economists ought to look at the country as a whole and find out what is the best use for the land in all parts of the country. Just as you said, we don't know completely the best use of the land. We probably have never put together a study of what the best uses are of land as a whole and, since it is a commodity or a resource which is not unlimited, perhaps it's time in this century when we are looking very carefully and surveying the finite features of Mars, to take a similar look at the United States. When we do this, perhaps Congress ought to get up some variable standards for what the most efficient use of the land is in the region where it is and the most efficient unit of production, and then possibly Congress might employ the carrot-and-stick to maximize that production consistent with market needs. It would do so by providing certain incentives to farmers and farmworkers who were formed into cooperatives and these incentives might be things like loan guarantees and other federal benefits.

Conversely, for people who were producing in an inefficient way, who had excess land, considerably in excess of those flexible norms, an excess land tax might be imposed. They have a choice of ownership or not, but the tax would tend to minimize the marginal speculative advantage they might derive.

If they chose to sell the land, just as Congress is now considering a law which the National Coalition for Land Reform endorses, to buy the excess land over 160-acre limitations, moneys might be made available to buy the excess land over these variable acreage production standards. That land might be held in trust, recognizing that it really does belong to the future, that is, the residual interest, and when it is leased back to growers, farmers, farmworkers, it might be leased back in a way that is consonant with that best, most efficient, most productive use. The leases might be made on long terms. Nevertheless, they would represent the fact that the land is a precious trust for the people.

Senator STEVENSON. You have made a point which hasn't been made before. We have giant corporate and conglomerate agribusiness which consumes the land and oftentimes to the disadvantage of the small farmer. Land in an amount equivalent to the size of Delaware yields to the bulldozer every year in this country. It is being consumed for industrial, recreational, residential purposes. Without an inventory of the land, we don't know what we own; we don't know who owns the land; and, we don't as you have mentioned, have anything remotely resembling a national land use policy. We need such a policy, not just for agricultural America, but for all of America.

There are some efforts afoot in Congress to try to develop such a national land use policy, but they haven't gotten very far yet.

Mr. GREENE. Let's hope that the committee will be able to advance these efforts through affirmative action.

I would like to conclude with just a couple of remarks, and it will only occupy another few minutes of your very patient time.

Senator STEVENSON. We will be glad to have them.

Mr. GREENE. Peter Barnes has given you a view of the future and I would like to give you a view of the future from the past. This is in my testimony. It is an extract of a hearing conducted by the California Legislature in 1961 on the disaster that befell the poultry industry after its vertical integration. I would suggest that that disaster is imminent in the specialty crops and in the fruit and the tree crops right at present, and I think it is imminent.

I would like to quote a couple of things. First of all, in 1959, a study by the House Agriculture Committee said that the farm losses in the poultry industry were attributed "to the rapid development of a specialized commercial production within the industry and the trend to contract farming and integration."

In that 1961 study, on pages 6 and 7 of my testimony, there is a very nicely put statement that I will just call to your attention. In the end of it it points out and really crystallizes one of the differences by saying that after all of these changes the growers were still not making money, "apparently because the integrator had no real incentive to raise wholesale prices to the level which would have brought his 'hired hands' the profit from sales he has already taken on the feed he supplied to them."

Finally, on that same page, I will quite from somebody else. They point out that the University of California exhorted the poultrymen to get bigger and bigger as an answer to this shrinking profits.

The report continues:

> "And poultrymen followed this advice. Profit margins kept shrinking and it took more and more eggs from more and more chickens to supply the operator and his family with a living wage."

That is the end of that quote.

A lot of specific testimony has been presented today that says that is precisely what has happened in this industry. We have seen large producers fall because of the market and because of the credit conditions. We have seen small producers who are hanging on for different reasons. Finally, you have seen farmworkers who are making a courageous start with assistance and who are making it in this system through proprietary ownership, security.

I would like to say, in conclusion, that the more I look at our society, I think it is suffering the enormous death wish. I think everything that we manifest, from the pollution of our rivers, the pollution of our environment, congestion, the preoccupation with violence, the law-and-order solutions to crime rather than the analysis of social implications, the fact that our principal industries in the United States are to produce death mechanisms, essentially military production which we dump on all the world as opposed to dumping, let's say, the surpluses of our agriculture which we could give away to a greater extent than we do, this death wish is almost like that which afflicted the mandarins in the dying period of China. It is like the decay of the complicated government of the Byzantine Empire as it shrunk and sort of turned into itself with consumerism and kind of an epicurianism.

Ironically last week we found that the administration was going forward with a vital contribution to the environment. It announced the appropriation—not appropriation, earmarking—of $5.6 billion for a reusable space shuttle.

Senator STEVENSON. It is going to cost a lot more than that.

Mr. GREENE. That is the initial estimate.

Senator STEVENSON. No, not even the initial estimate. The initial estimate is $6½ billion.

Mr. GREENE. Wow! I must have been reading conservative reports. But this makes no contribution to the environment and it is a fantastic drain on our resources.

This grandiosity is related to the colossal things that were built in Rome in the period of its decadence. It is related to that stone boat that the mandarins built when they had to defend their country from foreign invaders.

What happens to these societies—I am talking about the governmental structure—is that they gradually lose sight of what is important and they lose contact with what the reality is and then give up. The mandarins disappeared. I am saying this is the context of the elaborate, excellent series of hearings which your committee has courageously developed over a period of years. The record is now as long as several telephone books and is filled with sufficient evidence to demonstrate just what must be needed in terms of legislation to finally redress this horrible imbalance, this inequality in the protection of the laws which befalls the two lower strata of our rural society.

It is my hope, Senator Stevenson, that you will take these messages of these 3 days back to Washington and consider that, for the purposes of affirmative legislation, you have seen enough, and that you will take this awful burden on your back, possibly on the shoulders of your colleague, Senator Taft, and present some very affirmative legislation personally to rectify some of these problems before it is too late for the family farmer and for his colleague in poverty and powerlessness, the farmworker.

Thank you.

Senator STEVENSON. Thank you, Mr. Greene.

I may be a little bit more optimistic than you. If so, it is because you and others, some of whom have appeared as witnesses before the subcommittee in the last 3 days, have joined the fight that men like Dr. Paul Taylor have been waging for longer than you have.

(The statements and partial summary judgments submitted by Sheldon L. Greene follows:)

TO: The Honorable Adlai E. Stevenson, Chairman
Senate Migratory Labor Subcommittee
Hearing, Thursday, January 13, 1972
San Francisco, California

Statement of Sheldon L. Greene
General Counsel,
California Rural Legal Assistance

ILLEGAL ALIEN LABOR IN CALIFORNIA AGRICULTURE:

An Indirect Federal Subsidy

Nathalie Guyol
Secretary

PART I
ILLEGAL ENTRANT LABOR

California agriculture has always depended on cheap foreign labor. In the 19th century, it was the Chinese coolie. Then came the dust bowl refugees who were replaced by the Mexican contract worker, the bracero, the commuter, and now the illegal entrant.

Agriculture is California's number one business, grossing over 4.5 billion dollars in sales last year. As the corner grocery has yielded to the chain supermarket, the family farmer has surrendered to large semi-automated farm factories in many areas of agricultural production. Recent years have seen a further transition as substantial holdings have been acquired by conglomerates. Purex Corporation, for example, has acquired considerable farm land in the Imperial and Salinas Valleys in California. The United Fruit Company, known for Central American banana plantations and oceangoing cargo ships, also has an investment in the Salinas Valley. The concentration of agriculture in a few major producers is shown by the fact that 10% of the farmers control 70% of the acreage.

The significance of this concentration is the power and influence that goes with it.

In the food industry, the hardest job pays the least money. A wage of $5.00 an hour is being paid supermarket clerks. Production-line cannery workers earn piece-rate and overtime which averages as high as $3.70 an hour. Supermarket employees and cannery workers are almost totally unionized. The farmworker, however, works seasonally under adverse weather conditions, is susceptible to pesticide poisoning and chronic back pain from stoop labor, yet earns barely the minimum wage. Farmworkers' hourly earnings have for some time been half the national industrial average. Excluded from unemployment compensation and from the protection of the National Labor Relations Act, farmworkers have only recently begun to be organized; unions have managed to organize most of the table grape industry and are just now beginning to make inroads among lettuce pickers.

The Border Violator

The low wages, the lack of job security and the painstaking unionization process are attributable to agriculture's success in obtaining a continuous supply of cheap, abundant, often illegal foreign labor. The most pernicious and extensive category of alien labor used by agriculture is the border violator. In 1970, Immigration and Naturalization Service agents identified 317,016 border violators--nearly 100,000 more than in the previous year--with over 113,000 illegal entrants apprehended in California alone. In the twelve months of fiscal 1971, the figure had climbed to 420,126--up another 100,000 and more.

Since it is estimated that two or three go undetected for every apprehension, it may be concluded that an illegal labor force of 500,000 workers competes with resident laborers. At a time when overall unemployment in the United States stays around 6% of the labor force, the impact of the illegal entrant in areas of highest saturation may be demonstrated by the unemployment rate in California, reaching 7.4% of the labor force.

Harm Done Local Workers

The impact of illegal entrant hiring on the Sonoma County agricultural worker, for example, is revealed by comparative statistics published by the California State Employment Service for August 1970. August is the initial month of the harvest season, a period of maximum utilization of the labor force. The following graph reveals the worsened circumstances of the resident worker.

	August 1969	August 1970	Increase
Total Labor Force	72,400	75,700	3,300
Total Employment	68,800	70,500	1,700
Agricultural Employment	7,100	8,400	1,300
Total Unemployment	3,600	5,200	1,700
Unemployment Rate	5.0%	6.9%	39%
Illegal Workers, Estimate		1,040 - 1,560	

Notwithstanding an *increase* in jobs in the county, and a specific *increase in agricultural jobs*, the labor market bulletin for that period reported "Joblessness was at its second highest August level on record." (Exceeded only by 1967.) The estimated number of illegal entrants working in Sonoma County in August 1970 approaches the increase in unemployment over the previous year.

In light of the substantial increase in illegal-entrant saturation of the domestic labor market reflected by the concomitant increase in apprehensions (27,000 border violators were apprehended in Northern California in calendar 1971--a 25% increase over 1970), there is no question that the increase in labor force is contributed to by the presence of illegal entrants who displace resident workers, increasing unemployment even during the harvest season.

The wetback problem, currently at epidemic levels, has its origin in the bracero program, when Texas farmers refused to meet even the minimum contract standards imposed by the agreement with Mexico. When Mexico refused to provide braceros because the farmers would not guarantee minimum working standards, immigration officials simply opened the gates and let prospective workers cross into the United States. They were then technically apprehended and paroled to Texas farmers in avoidance of the international agreements. (The practice still continues on a small scale, for workers detained as witnesses in smuggling cases are farmed out to Southern California labor contractors.)

The problem is no doubt heightened by the fact that, between 1942 and 1963, the period of the bracero program, 4.5 million Mexican temporary workers were exposed to the relatively high wages paid under contract on American farms.

Government Complicity

The President's Commission on Migratory Labor, which studied the bracero problem in 1954, concluded,

> The United States, having engaged in a program of giving preference in contracting to those who had broken the law, has encouraged a violation of the immigration laws. Our government has thus become a contributor to the growth of an illegal traffic which it has responsibility to prevent.

The Eisenhower Administration agreed. General Swing, an Army friend of the President, was appointed Commissioner of the Immigration and Naturalization Service. With a commitment from the White House, backed up by resources, he mobilized law enforcement officers in a prolonged sweep resulting in the apprehension and return to Mexico of over two million wetbacks.

Employment Loophole

Operation Wetback, as it was called, was matched with affirmative legislation providing penalties for persons helping the illegal entrant come to the United States: 8 U.S.C. § 1324 prohibited the harboring, transporting, concealing or directly or indirectly inducing the entry of illegal entrants into the United States. But Congress, at the urging of conservative agricultural interests and their representatives, provided that employment and the incidents of employment should not constitute harboring.

In the debates the sponsor of the so-called East Texas Amendment explained that its intent was to exempt the occasional innocent employer from prosecution in its application or nonapplication. Offering employment, no questions asked, is surely an inducement. Facilitating transportation from the border to jobs, providing sequestered housing on controlled entry ranch property, is harboring. But the employment proviso has given carte blanche to agricultural employers to openly contract for and use illegal entrants for year-round and seasonal work. Mindful of adverse political reaction and apprehensive of the implications of the employment proviso, Border Patrol officers return again and again to ranches of blatant offenders during working hours and pick up a fraction of the workers found in the fields, but employers are never cited and their agents are seldom prosecuted.

A recent example, which attracted the attention of the national press, was a raid on the Los Angeles food processing plant of United States Treasurer-designate, Ramona Banuelos. No formal action was taken against Mrs. Banuelos, although five previous raids had netted illegal entrants in the employ of her company.

Growers Openly Use Illegals

A flagrant example of the use of illegal entrants by major agricultural employers, and illustrating half-hearted enforcement, was recently documented by former employees of the Coit Ranch, a 1000 acre table grape farm near Fresno, California. Resident employees walked out when the ranch owner refused to acknowledge demands for better wages. Johnnie Witworth, a former foreman, tells the story in his own language, ". . .Every Coit pickup has a radio and when they spot the Border Patrol they first call over the air to every other truck on the ranch that the Border Patrol is heading in whatever direction it is going and to hide all the wetbacks. If there is time, they tell them to scatter and hide in the fields. If they don't have a hiding place where the men are working, they carry them in Coit's trucks to the nearest hiding place, even if it is on someone else's land. The radio reaches the shop and the machine room and the welding room and the wetbacks are told to hide. I have seen this happen about nine times.

"One morning I personally counted 139 men in the field that I knew were wetbacks who got away. The reason I know they are wetbacks is because I have worked with every one of them or have seen them run when the Border Patrol came and the wetbacks hide."

Witworth confirms that the Border Patrol never bags more than a few of the illegals. ". . .The most illegals I have seen caught at one time were 13. On the day they caught the 13, approximately 85 illegals were working there. The planes come in at night and I suspect the wetbacks come in on them because they replace them so quickly."

Border violators work steadily but local farm workers are rejected. Witworth reported that he saw seven resident tractor drivers turned away at a time when 13 tractor jobs were held by illegal entrants.

The indictment of the Border Patrol is equally stinging. Witworth states, "In the last part of April when it was still cold, the Border Patrol came in a station wagon with two officers. It was 5:00 p.m. and I was working with eight to ten wetbacks, when the Border Patrol pulled up to a tree near us. The irrigation foreman. . .took the illegals away in a white Coit pickup. The Border Patrol was sitting by a tree watching us about 300 feet from where they were and did nothing to stop them or try to catch any of the wetbacks. I have never seen the Border Patrol stop and talk to tractor drivers during a raid. Sometimes when the Border Patrol comes in the ranch from Adams Avenue the spotters don't see them. When that happens, the tractor drivers don't run. They continue to work and the Border Patrol drives on by. . .Along about the first part of June, I was returning home from work on the Coit Ranch. I saw a Border Patrol car parked with one man at the corner of California and Highway 33. I stopped and asked him if they were raiding the Coit Ranch. He said 'Yes.' I told him he could catch all the wetbacks by hitting the clock on the ranch at 5:40 a.m. on any given day. He told me to mind my own business, that he knew how to catch the wetbacks."

U.S. Won't Prosecute

Consistent with the attitude of the Border Patrol, no prosecution of Coit personnel has resulted although the multiple affidavits showing clear violations of §1324 were presented to the Federal Attorney's office.

The Witworth affidavit is corroborated by 10 other former workers and an attorney, all eye-witnesses to one or more Border Patrol raids. The documentation of illegal entrant use on the Coit Ranch is unique since domestic workers, easily intimidated and fearful of blackball by employers, are reluctant to speak.

Although a decade has elapsed since the Texas incidents, the scenario has not changed; employers use alien workers to displace domestic workers and prevent unionization while federal officials passively cooperate. The failure of the government to hold employers responsible has compelled resident workers and their attorneys to take the initiative in the courts. A suit filed against multiple employers of illegal entrants including Fresh Pict Foods, national distributor of frozen foods, is one such case. Colorado farmworkers charged Fresh Pict, a major national supplier and other farmer defendants with using illegal entrants in lieu of resident workers. One worker, Alfonso Flores Huerta, charged that he had worked for one defendant since 1953. He agreed in June, 1970, to weed sugar beets for $10.50 per acre.

When he arrived at work he found a crew of illegal entrants on the job and was told that he would not be needed. The complaint also alleges that illegal entrants depress wages. Resident farmworkers were often compelled to work for under $1.00 an hour in 1969.

Other examples abound. Zuckerman Farms, for example, raises asparagus on an island in the delta of the San Joaquin River which empties into San Francisco Bay. The rich river bottomland is reached by a bridge built by the California Highway Department. Access to the island is controlled by the grower. Illegal entrants have been steadily supplied to Zuckerman Farms by one labor contractor. The workers live on the island in housing built originally for braceros and seldom leave. Zuckerman Farms has always been a fertile source of illegal entrants for Border Patrol officers even though spotters regularly provide warning to illegal entrants that work in the fields. Illegal entrants are regularly employed to harvest asparagus in spite of the farm's proximity to Stockton, one of the highest areas of impacted unemployment in the nation.

Illegals Abused

Despite the high pay, life is not rosy for wetback workers. In Washington in the Yakima Valley suppliers to Del Monte are reported by the Center for Community Change to actually physically abuse illegal entrants, driving them at an intense pace under pain of apprehension and deportation. In Wyoming a regular user of illegal entrant workers maintains a special dormitory for those who are less active. Border Patrol officials regularly raid that dormitory but never touch the one where the good workers live. Because they can be pushed to their physical limits without complaint, live on the ranches and make no trouble, the violators often get the full-time jobs working the cultivation cycle from pruning in the winter through springtime thinning, and finally the summer harvest.

Urban Employment

But illegal entrant use has not, is not, and never has been restricted to agricultural employment. They can be found in equal numbers in canneries or in urban employment where they work as furniture makers, garment workers, dishwashers, bus boys in a spectrum of invisible menial jobs paid marginal wages. In 1954, 331,000 illegal entrants were apprehended in the City of San Antonio. In the spring of 1970 apprehensions in Los Angeles were at the rate of 400 to 500 per day, 90% of which were employed.

Poor Enforcement

Exploitation of illegal entrants by employers is matched by an ambiguous record of federal law enforcement.

On the affirmative side, about 50 million dollars, half the budget of the INS, is spent on the identification and expulsion of immigration violators. The bulk of the Border Patrol is allocated to areas contiguous to the Mexican border where the preponderance of the violations occur. The expulsion of almost a quarter of a million violators in 1969 is indicative of a certain earnestness and efficiency.

If apprehension alone could be equated with deterrence the program would be effective, but regrettably, such is not the case. Ostensibly in order to minimize the costs of detention and to avoid prolonged hearings, illegal entrants are returned to the border with dispatch and in a matter of days are placed on chartered buses which transport them to their home regions in Mexico at government expense. Statistically only one in 200 illegal entrants, all multiple returnees or those involved in smuggling, face criminal prosecution. Less than 5% are subjected to formal deportation proceedings, although that administrative procedure usually is a formality, a ten to fifteen minute process.

Short of economy, the expedient return policy has little to commend it and is in fact the reversal of the effective detention policy of Operation Wetback. In the Fifties, because of limited transportation facilities, illegal entrants waited without work in camps for a matter of weeks. Many finally endured a leisurely if uncomfortable voyage to Mazatlan in a converted freighter. The three-week detention time is said by immigration authorities to have been a substantial deterrent to return.

In contrast, a quick trip home to see relatives at federal government expense has little deterrent effect. If anything, it is an incentive to employment in the United States. It is moreover subject to abuse. Recently two border violators were apprehended in the United States before the bus had reached its destination in Mexico. Drivers are similarly known to make the return trip to the border with a load of illegal entrants. Aware that the only risk is that of apprehension and return, enterprising Mexican nationals don't hesitate to cross the border, lured by jobs which pay up to 15 times the Mexican wage.

Immigration authorities explain that civil rights laws and the potential of multiple prolonged deportation hearings stimulated by immigration lawyers are further reasons for the expedient return policy. The validity of this suggestion is untested. Agents seldom make a mistake in detaining persons who are lawfully in the country. Mistakes are promptly rectified. Moreover, illegal entrants seem willing to voluntarily acknowledge that they are unlawfully in the country. First offenders would certainly do so in return for a waiver. It is questionable whether they would accept a delay in coming to trial and at the same time be prepared to pay several hundred dollars in attorneys' fees on a flier that they could possibly remain in the country.

The failure of the current policy to deter entry reflects either complicity or an urgent need to change it, or both. A lack of funds is an insufficient ground if public officials fail to request from Congress the needed resources. The influence of lobbyists who support illegal entrants is both invisible and apparent. In California support for illegal entrant use is strongest in agriculture, the most influential industry in the State.

Abuse of Visitor Passes

The illegal entrant problem is magnified by a further concession to the willful or indifferent employer of illegal entrants which exceeds the prior collusion with Texas farmers. The immigration laws provide for the issuance of a pass which authorizes an alien resident of a contiguous country to enter the United States for a maximum of 72 hours within 25 miles of the border. This pass, the I-186, issued to over two million visitors for business or pleasure in lieu of a visa, is intended to simplify procedures and to recognize the inter-relationships of contiguous communities straddling the border. There is evidence, however, that it has instead become an expedient document of admission for persons who come to the United States to seek employment. Pass-holders cross through regular inspection points then return the I-186 to Mexico by mail and proceed beyond the 25-mile limit. If apprehended they claim illegal entry to avoid revocation of the 72-hour pass. Despite the likelihood of abuse, the border crossing card is issued without duration. No fingerprints are taken of applicants for the I-186 pass. Nor does the INS take the trouble to obtain fingerprints of illegal entrants apprehended by them. Therefore it is difficult to match apprehended aliens with INS card holders for the purposes of revocation. Nor are border violators detained long enough in most cases for search of records to determine that apprehended border violators are also possessors of the I-186. The provision of the law that requires the alien to carry his entry documents is not enforced.

Moreover, of the two and a quarter million passes presently outstanding, substantial numbers have been issued to persons residing in areas remote from the border with little likelihood that the card would be used other than to facilitate entry for employment purposes. Fourteen thousand such cards are issued each month. The Immigration and Naturalization Service is not fully to blame for this gap, for control of issuance is largely in the hands of State Department consular officials whose priorities possibly do not include the protection of resident low-income workers in the United States. The initial establishment of the I-186 as an alternative to a visa, the apparent laxity in issuance, the lack of duration and the failure to revoke greater numbers, all reflect the creation of a back door bracero program to benefit employers at the expense of the resident poor.

Smugglers and Marijuana

Those who don't have a pass rely on expensive smugglers. Smuggling has increased alarmingly in recent years and is a profitable business. Illegal entrants are often transported by the truckload at a cost of two to three hundred dollars per head. Illegal drugs are sometimes brought along to increase profits. The underground railroad of agents starts with the hustler in the Square of Juarez and ends in a Spanish-speaking employment office or labor camp far in the interior.

Apprehended smugglers are prosecuted consistently but receive nominal jail terms or suspended sentences. Common two or three month sentences belie the seriousness of the problem. Not only does the smuggler take jobs away from American workers but the high price he gets for the trip across the border carries no guarantee of work or even arrival. For many illegal entrants their expectations are aborted by the Border Patrol which maintains regular traffic inspections on principal roads leading away from the border. Some meet death as did six wetbacks when the truck in which they were being transported turned over as the driver attempted to outrun the Border Patrol.

Legal Process Ignored

Although the bracero program was terminated, as indicated, in 1963, Congress nevertheless provided a legal means for obtaining workers in the event that the domestic labor supply proved inadequate. [8 U.S.C. § 1101(a)(15)(H)(ii)]. Consistent with the statute, regulations adopted by the Department of Labor (29 C.F.R. §60.3-6, 20 C.F.R. §602.10) established conditions for the importation of permanent or temporary workers to minimize harm to resident workers. An employer requesting a certification authorizing the use of a specified number of temporary alien workers must first demonstrate to the Department of Labor that he has made a substantial effort to recruit domestic workers without success. He must have offered housing, Workmen's Compensation Insurance and a guarantee of at least three-quarters of the work days of the period of employment at an adverse effect minimum wage. The employer must also demonstrate conformity with state and local health, housing and wage and hour laws. It must be shown that the workers will not be used to interfere in labor disputes. Finally, the applicant must not during three years prior to certification have employed illegal entrants "unless the employer demonstrates that he did not know, had no reasonable grounds to suspect, or could not by reasonable inquiry have ascertained that the alien worker was not lawfully in the United States." 8 U.S.C. §1184(c) and 8 C.F.R. §214.2(h)(ii) impose the affirmative duty on an employer to petition the INS for prospective alien workers and to first obtain a certification from the Labor Department that the domestic labor supply is inadequate.

Until 1967, the Labor Department officials in California regularly certified the importation of thousands of braceros for use at the harvest peak, based upon questionable compliance with these regulations. Litigation filed against the Labor Department in 1967 resulted in enforcement of the regulations and the denial of further applications. Since then, the employers have universally ignored the petition process, circumventing it through the importation and use of illegal entrants.

No Help From Courts

The courts have failed to provide resident workers with relief from the illegal entrant blight. A state court of appeals in a definitive decision acknowledged that workers have a right to sue employers but refused to grant an injunction, blaming the "self-imposed impotence of our national government" for the failure to bar the illegal worker from employment. (Diaz v. Kay-Dix Ranch, 9 C.A.3d 588, 88 Cal.Rptr. 443 [1970]).

State Legislation Enacted

In the fall of 1971, California became the first state to prohibit the knowing employment of illegal entrants when it has an adverse effect on resident workers. The measure provides a penalty of $200 to $500 for each offense, and further provides that the criminal sanctions shall not be a bar to a civil suit brought by displaced workers. The new law, Labor Code § 2805, passed the legislature with bipartisan support, was signed by Governor Reagan over the objection of powerful manufacturing and agricultural lobbies, and takes effect February 1, 1972.

PART II

ADMITTANCE OF COMMUTER ALIENS

The history of admitting illegal entrants to accomodate employers has its counterpart in the growth of the commuter worker. Despite high unemployment in the United States, the Immigration and Naturalization Service admits a minimum of 50,000 non-resident aliens who regularly enter the country without a valid visa, solely to work. Called "commuters," these aliens were at one time issued a permanent residence visa but continued to reside in a contiguous foreign country, entering the United States daily or seasonally, although their visas expired four months after issuance. The extraordinary anomaly is that the commuter is permitted by the INS to enter without any statutory or regulatory authorization from Congress.

In 1968, the Department of Labor completed an intensive study of the impact of the commuter on the domestic worker, for the Select Commission on Western Hemisphere Immigration. The study showed a conclusive correlation between low wages and unemployment and the use of commuter workers. As with wetbacks, the survey showed that "commuters work most often in the lowest skilled, most menial, and lowest paid jobs; seasonal farm work, maids, kitchen helpers, sales clerks, sewing machine operators." Wages in Texas border areas where commuters are used were more than 30% under the rest of the state.

Similar conclusions were reached in the Imperial Valley, the rich California area contiguous to the Mexican border. Unemployment was found to be twice the average rate for the entire state. The stark testimony of farmworkers confirms the conclusions of the Select Commission: On their return from seasonal work in the north, the commuters displace resident Imperial Valley workers. Moreover, as the commuters return, employers offer 20 cents less per hour.

The commuter's sole authority for entry is a Form I-151, Alien Registration Receipt Card (commonly known as a "green card," although blue), issued by the Immigration and Naturalization Service as an informal document of entry. Considering the tangibility of this group, and its material impact on domestic workers with whom they compete, it is extraordinary that the INS has permitted the practice to continue, although the last regulation indirectly authorizing commuter entry was rescinded by the Agency in 1952. In fact, current regulations limit the use of the I-151 for re-entry to an alien who is "returning to an unrelinquished lawful, permanent residence." (8 C.F.R. § 211.1[b][1]). One provision of the regulation even expressly excludes any green-card holder who is entering with the intent to work at the situs of a labor dispute.

The regulation, if not the practice, is consistent with 8 U.S.C. § 1181, its statutory basis. Until 1965, tenuous language in that provision afforded at least philosophical justification for commuter entry. Subsection (a) then permitted, and still permits, admission of a person only if he "has a valid, unexpired immigrant visa." Subsection (b), however, provided that "aliens lawfully admitted for permanent residence who depart from the United States temporarily" could re-enter on presentation of informal documents of entry, such as the I-151. The INS reasoned that the commuter, having once been accorded the "privilege of permanent residence," was still entitled to enter the country.

In 1965, Congress deprived the INS of that rationalization. The ensuing change in 8 U.S.C. § 1181(b) was, of course, a minor facet of a new immigration law which replaced the national-origin quota system with a Labor Department affirmative certification process limiting the entry of alien workers to those who might be absorbed without damage to the economy and the resident labor force. By the change, Congress indicated its intent to strengthen "safeguards to protect the American economy from job competition and from adverse working standards as a consequence of immigrant workers entering the labor market."

Under the new law, each prospective entrant had to obtain a certification from the Secretary of Labor that the supply of workers in the field in which he would be employed was inadequate, and that his entry into the labor market would not adversely affect the wages and working conditions of similarly-employed local workers.[1]

The previously-mentioned change of 8 U.S.C. § 1181(b) served the Act's purposes in eliminating the very language which the INS claimed justified the admission of commuter aliens. As amended, 8 U.S.C. § 1181(b) restricted informal entry to "returning resident immigrants"--defined in 8 U.S.C. § 1101(a)(27)(B) as "an immigrant lawfully admitted for permanent residence, who is returning from a temporary visit abroad." The statutory definition of residence,[2] as the "place of general abode . . . his principal, actual dwelling place in fact, without regard to intent," read with the amendments to § 1181(b), unambiguously excluded the commuter worker. No distortion of the English language could result in finding that the commuter was entering the United States after a temporary visit abroad to return to his principal, actual dwelling place. Rather, the commuter was simply leaving his foreign home, entering the United States simply to work.

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[1] 8 U.S.C. § 1182(a)(14). The pre-1965 language had permitted the entry of immigrants unless the Secretary of Labor made a finding of harm to local workers (Act of June 27, 1952, 66 Stat. 182, ch. 477; Title 2, ch. 2, § 212).

[2] 8 U.S.C. § 1101(a)(33).

After 1965, the commuter was not simply lacking in statutory authority; rather, the practice was prohibited. Why, then, did the INS continue the policy? The complexity of abruptly terminating the entry privilege of so large a class is one explanation. Another is that the INS continued the status to provide a substitute for the terminated bracero program. The connection between bracero-using farmers and the commuter has been described by observers. California farmers provided multiple offers of permanent employment to braceros, facilitating the issuance of permanent-residence visas. Thousands of labor certifications were issued on false representations by agricultural employers that permanent jobs were available to the applicants. How many green cards were issued under these circumstances is conjectural. As stated, the INS has identified 50,000 aliens who are recognized as commuters by a grommet through their identification cards. Those who have been identified possess essentially a mere permit to work in the United States. They must provide proof of continued employment in the United States every six months. If a commuter ceases to be employed for a full six-month period, his privilege of entry is deemed abandoned and he is excluded.[1] Significantly, no matter how long the commuter has the "privilege" of permanent residence, he will be denied the right to naturalization unless he first establishes actual residency in the United States for a full five-year period.[2]

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[1] Matter of M.D.S., 8 I & N Dec. 209 (1958).

[2] In re Correa, 79 F.Supp. 255 (W.D. Texas, 1948).

Litigation Fails

Predictably, organized labor has twice attempted to litigate the commuter out of existence. When commuters were used to break a strike at a Texas meat-packing plant in 1960, the meatcutters' union successfully obtained a certification of a labor dispute from the Secretary of Labor, which prohibited the use of alien workers in the struck plant. The INS, however, refused to apply the certification to exclude commuter workers. The union then went to court, obtaining an injunction to compel their exclusion.[1]

The court determined that commuters met none of the statutory definitions of immigrant, and were therefore non-immigrants, as defined in 8 U.S.C. § 1101(a)(15)(H)(ii). The court concluded that to admit the commuter to work at a struck plant would "make a shambles" of 8 U.S.C. § 1101(a)(15)(H)(ii), which was enacted "to assure strong safeguards for American labor."

Amalgamated Meatcutters should have resolved the question--if not at the trial court level, at least on appeal. However, the INS chose not to appeal the case. Similarly, they chose not to observe it, limiting the scope of the opinion to the specific Texas labor dispute, which had ended.

Not content with the outcome of Amalgamated Meatcutters, labor licked its wounds and tried again in 1964.[2] This time, the coin fell on the other side, and the court ruled that the union lacked even standing to challenge the commuter policy. While avoiding the case on the merits, the judge nevertheless criticized the previous decision, asserting that it was not good law. Reasoning that the status of thousands of commuters could not be adjudicated with respect to the entire class, the opinion seemingly implied that due process would require individual exclusion proceedings. With that defeat, the unions gave up, not exploiting the 1965 change in the law which the Labor Department failed to note and the INS failed to publicize.

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[1] Amalgamated Meatcutters and Butcher Workmen v. Rogers, 186 F.Supp. 114 (D.D.C. 1960).

[2] Texas AFL-CIO v. Kennedy, 330 F.2d 217 (D.C. 1964).

One possible reason for the commuter opponents overlooking the 1965 change in the law was the way in which it was presented in the House comment on the bill. The Report stated that § 1181 was amended to "broaden the authority of the Attorney General to weigh documentation required of a returning resident alien." Anyone who read that statement who was not facile in the definitions of the immigration laws would not readily perceive that the broadening of the Attorney General's authority applied to "returning residents" and by definition was not applicable to returning non-residents. To reach that conclusion, it was necessary to turn back into legislative history, to the initial committee hearings on the bill.[1]

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[1] Hearings on a Study of Population and Immigration Problems, Subcommittee on Immigration, House Committee on the Judiciary, 88th Cong., 1st Sess. 163-169 (1963).

The then General Counsel of the INS explained the position of the agency--that the commuter was an immigrant, having been accorded the privilege of permanent residence. Counsel to the House Immigration Subcommittee disagreed:

> An immigrant who came here from overseas, established a residence but left his family behind and is going abroad to visit that family . . . would be, in my opinion, a returning immigrant when he comes back, regardless of how often he makes the trip. But what is different is the commuter who has not established residence here and therefore is not returning thereto.

The INS General Counsel then cited the former language of 8 U.S.C. § 1181(b), explaining that the authorization to use the green card "doesn't refer to a visit. It talks about departure. . . ."

The Committee took note of the reasoning, concluded the discussion but changed the language of 8 U.S.C. § 1181(b) to delete "aliens lawfully admitted who depart temporarily" --the very language relied on by the INS. But in depriving the Justice Department of the latitude to admit commuters, the Committee at the same time intended to clarify the authority of the Attorney General to permit the use of informal entry documents, as the comment to the amendment to the section indicated. The INS General Counsel had previously testified correctly that § 1181(b) did not expressly authorize resident green-card holders to re-enter without the "valid unexpired immigrant visa" required under § 1181(a). The change in subsection 1181(b) therefore corrected that ambiguity, authorizing the use of the green card by resident immigrants, but, consistent with the expressed reasoning of the Committee Counsel, prohibited its use by non-resident commuters.

The conclusion is inescapable, that the Committee, having discussed the Amalgamated Meatcutters case with the INS General Counsel, intended to and did in fact ratify the rule of that case in its entirety. The court had determined that "returning lawfully domiciled resident aliens" were permitted to enter the United States in spite of the Labor Department's prohibitory certification, but that commuters had no right of entry. The clarification of the language agreed completely with both premises of the Amalgamated Meatcutters opinion. The Committee was remiss, however, in failing to discuss the impact of the change in the House Report. But the failure is not fatal, for the language of the law, lacking in ambiguity, requires no explanation. The INS largely ignored the change, but nevertheless expressly amended its regulations to bar the re-entry of a green-card holder whose purpose was to seek employment at the situs of a labor dispute.

In 1968, both the exclusion of the commuter strikebreaker and the indiscriminate admittance of the commuter were challenged in litigation--needless to say, by adverse plaintiffs. In the first case, eleven commuter aliens, excluded when they attempted to enter the United States to be employed at a ranch being picketed by UFWOC organizers, challenged the validity of 8 C.F.R. § 211.1(b)(1).[1] The Court upheld the regulation, ruling that the use of a green card was subject to restriction, but skirted the issue of the validity of the commuter status itself. Acknowledging that the commuter status was a fiction, the Court ruled that the entry of a commuter "is at the sufferance of the Attorney General," and that "until Congress acts to determine the status of the 'commuter,' the Court should not intervene."

The second challenge was brought by two California farmworkers who sought to bar the entry of commuters.[2] While acknowledging that plaintiffs had standing to challenge government inaction, the Court, in an unreported opinion, nevertheless granted defendant Department of Justice's motion for summary judgment. Acknowledging that "no explicit statutory or constitutional provision protects the commuter against exclusion," the Court nevertheless recognized "the long practice of the Immigration and Naturalization Service in treating the commuter as a special immigrant," which the Court characterized as an unvarying interpretation "since passage of the Immigration and Nationality Act of 1952." The Court acknowledged that amendment to § 1181(b) could be interpreted to require

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[1] Cermeno-Cerna v. Farrell, 291 F.Supp. 521 (C.D. California 1968).

[2] Gooch v. Clark, 433 F.2d 74 (9 Cir. 1970).

"exclusion of the commuter who is not a permanent resident of the United States returning from a temporary visit abroad." However, in the Court's view, "it is also susceptible to an interpretation" that it tacitly approves the INS position by its specific reference to 8 U.S.C. § 1101(a)(27)(B), which defines residents returning from a temporary visit abroad as immigrants. This conclusion seems to make little sense, since it conflicts with the Court's previous finding that a commuter was not a returning resident.

The decision was based on a simple paucity of legislative history which would indicate that the Congress intended to abolish the commuter status by the amendment to 8 U.S.C. § 1181(b). The Court explained that no hearings resulted "in any recommendation to abolish" the commuter system, and that the final Senate Report and conference report on the 1965 amendments neither mention the change "nor its purpose," even in the section-by-section analysis. Citing incidentally the "potential foreign policy consequences involved in termination" of the commuter status, the opinion concluded:

> . . . the Court should not attribute to Congress any such casual and off-handed disposition of so important a matter--especially when the language of Congressional amendment can be interpreted consistently with continuation of a long-standing practice of which Congress had full knowledge.

When analyzed, the rule of the District Court in the Gooch case presents a role-reversal, in which the public agency makes the law, and Congress, sitting as a sort of judicial board of review, has the obligation to nullify it --not even by enacting law itself, but by the interpretive commentary appended to the law. In fact, even an unambiguous statement of purpose of an act by Congress--in this case, the protection of domestic workers against foreign workers --is not sufficient in the eyes of the Court to offset the informal interpretation of the public agency. Finally, the case nullifies the rule that the custom of a public agency is void to the extent that it is inconsistent with the clear language of the statute.

Nevertheless, the Court of Appeals, one judge dissenting, sustained the position of the lower court. The majority opinion endeavors to fortify the position of the lower court, by citing decisions of the Board of Immigration Appeals of the Justice Department. The reviewing court introduced a common-law theory of creation of administrative rights, saying, "The Board of Immigration Appeals has established, by administrative case law, clear rules as to who is entitled to commuter status and how that status can be lost." The express language of the immigration regulations (8 C.F.R. § 211.1[b][1]) which limits the use of a green card to a returning actual resident is reconciled by the Court's acceptance of the Government's position that the regulation "does not include commuters within its scope except for, the Government argues, the last sentence thereof." This reasoning is inherently self-contradictory, since the regulation plainly, without exception, governs the use of a green card as an entry document. The Court's explanation is without foundation since the last sentence authorizes the government to exclude any bearer of a green card who seeks entry to work at the site of a labor dispute, whether he is a resident or non-resident. Justifying the commuter status by simple reliance upon the quasi-judicial interpretation of the administrative agency is inherently untenable, therefore, since the interpretation stands in irreconcilable contradiction with the quasi-legislative determination found in 8 C.F.R. § 211.1(b)(1).

Turning from the administrative justification to the statutes, the opinion concludes that commuters are immigrants

> . . . admitted for permanent residence . . . having been lawfully accorded the privilege of residing permanently in the United States as an immigrant in accordance with the immigration laws such status not having changed.

The Court reasoned that since the privilege of permanent residence has been accorded the commuter, his "disinclination to exercise that privilege is of no moment. Turning to the change in 8 U.S.C. § 1181(b), the Court commented, "The Government's construction of the 1965 amendment strains the language severely." However, the Court continued, the legislative history is "virtually silent" and

Congress could not have intended the change in the commuter status by such a "minor and obscure change" in the language.

The Court failed to construe the 1965 amendment to 8 U.S.C. § 1181(b) restricting informal entry to "returning" resident immigrants." It also ignored the definition of residence in 8 U.S.C. § 1101(a)(33) as "actual dwelling place in fact," which would, when taken with the change in § 1181(b), exclude the commuter. The Court even failed to construe the comment in the House report on the bill relating to the broadening of "the authority of the Attorney General to waive documentation required of a returning resident alien." Consideration of that issue would have involved construction of Bonetti v. Rogers, which had held that all returning residents were excludable.[1] Finally, the Court ignored the clear explanation of the change in § 1181 found in the Committee reports.

The dissent took strenuous issue with the reasoning of the majority opinion:

> . . . the majority, without discussion and virtually without authority, accepts the Service's contention that an alien is "lawfully admitted for permanent residence" merely by virtue of the fact that he has at some time in the past been issued an immigrant visa. Immaterial are both an actual residence in the United States and the intention to establish one. Since I think this conclusion at war with the most elementary principles of statutory construction and unsupported by any consistent administrative interpretation, I must respectfully dissent.

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[1] 356 U.S. 691. 698; 78 S.Ct. 976, 980.

The dissenting opinion explains:

> . . . the majority's construction of "lawfully admitted for permanent residence" as including commuters makes nonsense of the Congressional policy embodied in no fewer than five sections of the Act entirely apart from Section 1101(a)(27)(B), and is contrary to the plain meaning of two others.

If the majority opinion is correct, "all of the thousands of people, all over the world, who have ever received a valid immigration visa, also qualify as aliens lawfully admitted for permanent residence. . . . [T]he plain meaning of the act and the intent of Congress are so clear as to foreclose judicial deference to an administrative agency. Nor have the courts deferred to any consistent or coherent interpretation of the agency," the dissent reasons, referring to 8 C.F.R. § 211.1(b)(1).

Both the majority opinion and that of the lower court have a somewhat novel base, and extraordinary implications for the powers of a public agency vis-a-vis the legislature. The appellate court holds that a public agency may act beyond the scope of its statutory authority, creating new rights and duties. The second alteration of the law, inherent in the case, is the establishment of a doctrine of legislative acquiescence which can, without more, legitimate the ultra vires conduct of a public agency when it is at least constructively known to the legislature. A third corollary of the ruling is that, even given a change in the language of a pertinent statute which, read in its usual unambiguous meaning, would nullify the unauthorized policy of the public agency, the interpretation of the public agency would prevail. Only if Congress went further, and commented on the purpose of the section in its analysis of the act would the unauthorized agency policy be eliminated.

The Supreme Court denied certiorari in the matter, so the judicial status of the commuter hangs somewhat tenuously on a split Ninth Circuit decision which neglected to discuss contradictory statutes or even to reconcile the differences between the quasi-judicial and quasi-legislative administrative approach to the commuter. In following its tendency to favor the status quo, the judiciary has saved for the non-resident commuter scarce jobs which Congress intended to preserve for resident workers. And the public agency, with the courts' acquiescence, like a 15th-century cabal, has succeeded in creating a golem from quasi-judicial incantation.

PART III

CONCLUSION

What then is the box score on the use of alien labor for the American public, the taxpayer and the resident worker? California figures demonstrate the problem in microcosm for the nation. The apprehension of more than 113,000 illegal entrants in 1970 would reflect the presence of two to three hundred thousand illegal entrants in the job market. When augmented by possibly 75,000 commuter aliens, 300,000 jobs occupied by persons without lawful status is not unrealistic. At the same time unemployment in June of 1971 in California was 7.4% of the labor force. About 600,000 wage earners were unemployed in California, most of whom were unskilled or semi-skilled. Over 60,000 families of unemployed wage earners were receiving public assistance at a cost of over one hundred million dollars annually. The annual loss in wages to the displaced resident worker could be as high as $300,000,000 assuming average earnings of each of the 300,000 non-resident alien workers at only $1,000 annually.

Recommendations

These ills can be eliminated if Congress takes the following steps:

1. Repeal of the employment proviso (8 U.S.C. § 1324).

2. Express prohibition of the employment of border violators.

3. Provision for a civil remedy to redress illegal entrant hiring.

4. An extension of the jurisdiction of federal magistrates to the prosecution of border violators.

5. Grant the INS authority to levy expeditious administrative fines against immigration violators as well as authority to confiscate vehicles used in the transportation of illegal entrants.

6. The limitation of all entry permits such as the I-186 72-hour pass to a specific term, renewable at the option of the INS. (8 U.S.C. § 1101 [a][6]).

7. Rescission of the 2.25 million outstanding 72-hour visitor permits. Reissuance of I-186 passes restricted to persons with a legitimate reason for frequent entry other than for work.

8. The appropriation of additional funds expressly tied to control of illegal entry.

9. Subject commuters to periodic labor certification as a condition of entry.

Sheldon L. Greene

January 13, 1972

TO: The Honorable Adlai E. Stevenson, Chairman
Senate Migratory Labor Subcommittee
Hearing, Thursday, January 13, 1972
San Francisco, California

CORPORATE FEUDALISM IN RURAL AMERICA

Statement of Sheldon L. Greene
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CORPORATE FEUDALISM IN RURAL AMERICA

Rural Exodus

Agriculture, responsible for 50 billion dollars of the American gross national product, long a bastion of individual enterprise, is being transformed into a neo-feudal society. The exodus of farmers and farmworkers has resulted in a population loss of 40 million since 1920. Each year, up to 100,000 farms are abandoned. Rural poverty remains unabated, for the agricultural worker is still the lowest-paid employee group in the United States, earning hourly half the national industrial average wage. But the farmworker does not monopolize rural poverty, for studies reflect that one-half of the remaining farmers derive cash income from agriculture which is at or below the level of poverty in America.

Corporate Feudalism

The observable decrease in the number of farms and the increase in the average size of farms is concomitant with the increase in technology, and the entry of non-agricultural corporate interests and conglomerates into agricultural production.

An extensive form of participation of big business in agriculture is seen in the poultry industry, where producers of feeds and equipment have entered into various arrangements with small and medium-sized farms, contracting for all of their output, providing the farmers in turn with feed and chicks. Direct entry into agriculture by non-farming interests has been the acquisition of farms as a component of vertical integration, by conglomerates which produce farm equipment and fertilizers, and control processing as well as retail marketing of products.

Family Farms Most Efficient

A typical gut reaction of the sophisticated American is to approve these trends. Generally, big business, standardization, access to capital, uniformity, technology, and size are equated with efficiency, increased productivity and, we are told, better wages for the worker, better earnings, and lower prices for the consumer. None of these generalities has proven true in agriculture.

Initially, it should be said that bigness does not necessarily equate with efficiency. To depart from economics, biology records exactly the contrary: The dinosaur, the mammoth, are gone, while the lemur, the insects, the lizard, have survived. Closer to home, the government has had to come to the aid of two of our largest corporations--Lockheed and Penn Central--to keep them out of receivership.

In agriculture, it has been demonstrated that the family farms are in fact the most efficient unit of productivity. While the size of the farm--the number of acres--would of course vary depending upon the nature of the crop, "studies show that the ultimate in efficiency is attained by family farmers relying upon one or two additional workers."[1]

In the words of one agricultural economist, summarizing studies of farm efficiency,

> A number of studies of crop farming situations in various states were reviewed. In most of these situations, all of the economies of size could be achieved by modern and fully-mechanized one-man or two-man farms.[2]

The study indicated that size/efficiency relationships varied from crop to crop; however, with regard to the production of cling peaches, "average cost reached a minimum with an orchard size of 90 to 110 acres when mechanized practices were used." In the Imperial Valley, examination of vegetable farms having acreage which ranged higher than 2,400 acres disclosed that the farms under 640 acres "could produce almost as efficiently as any larger size." Producers of field crops such as cotton, alfalfa, milo and barley "were found to achieve lowest average cost at about 640 acres." The report found, in fact, that in these areas, "larger farms extending beyond 3,000 acres were slightly less efficient." The report concluded that the major difference between the small and medium-sized farm and the large farm was simply that the latter produced more profits for the farm owner.

A related study has come to similar conclusions:[3]

> A soundly-organized two- or three-man farm operating with the techniques of modern technology can easily exhaust the technical economies.

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[1] Armstrong, Can Family Farms Compete: An Economic Analysis. University of Nebraska, Dept. of Agriculture Economic Report No. 53, 1969.

[2] J. P. Madden. Economies of Size in Farming. USDA Agricultural Economic Report No. 107, 1969.

[3] Armstrong, op. cit.

The report indicates maximum efficiency for "a 40- to 50-cow dairy farm with a high level of management, a 1500-head beef-feeding operation, or a 400-acre midwest crop farm." Studies note that volume is necessary to provide sufficient family income, and, finally,

> . . . pecuniary economies in purchasing and selling are available to our large farms. Management on large farms concentrate on this area because of its profit potential. Unless cooperatives can aid the smaller farmers, again the larger farmers have the advantage.

The same argument holds for both the purchase of inputs and the sale of products.

Beyond technological efficiency, other factors affect the farm income.

> The trend is toward large-scale economic organizations. In addition to the benefits from monopolistic positions, the incentives for large-scale are often related to the advantages of vertical coordination planning, financing, and promotion, rather than economies in the processing and manufacturing. Among other small-scale organizations, the family farm seems to be threatened from these external advantages.[1]

In summary, the small- and medium-sized unit is efficient and is competitive. The family income, or the income of the owners, however, depends upon other considerations, such as the cost of production and the price which the market will pay for his productivity, as well as the impact of monopolistic competition.

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[1] Armstrong, op cit.

Agribusiness: No Gain for Farmer, Consumer

Considering these questions, again analysis reflects that technology and entry by big business into agriculture have not put more money into the farmer's pocket and do not necessarily benefit the consumer. A bottle of ketchup, for example, costs the housewife about 30 cents; the farmer is paid about one cent for the tomatoes that make up the bulk of the food content of the bottle of ketchup. An increase of ten, twenty or even fifty percent in the farmer's price would have no appreciable effect on the price of ketchup--if it were simply proportionately passed along to the consumer. The increase would be substantial to the farmer, however, increasing the profitability of his operation and possibly facilitating the payment of a higher wage to the farmworker commensurate with the increased profitability of the tomato harvest.

The farmer and the farmworker realize only a small proportion of the cost of agricultural products borne by the consumer, while increases in food prices have gone to the middlemen, the processors and the retailers: cannery workers now earn up to $3.70 an hour, Safeway clerks earn $5.00 an hour, but the farmworker--often performing the hardest work under the most trying conditions--is paid $1.80 an hour.

It has been suggested that the farmer can maximize his earnings by increasing his production or utilizing technology to lower his costs. But increases in efficiency do not necessarily result in greater profitability for the farmer, because he usually can't control his costs or the market for his production. For example, between 1951 and 1961, California poultry raisers reduced the cost of raising broiler chickens by 8 cents a pound; during that same period, the price they received for broiler chickens was lowered 18 cents a pound--a loss of 10 cents a pound in excess of the reduction of cost.

Poultry Peons

An analysis of the poultry-and-egg industry, which has moved from production by small independent farmers to control by vertically integrated national poultry-feed suppliers such as Ralston Purina, illustrates the error in assuming that increased productivity and production is equated with prosperity in agriculture. In 1961, a California legislative committee completed a report on the crisis in the poultry industry, resulting basically from vertical integration by non-agricultural corporate interests.[1] The following extracts from the study reveal the roots of the problem and shed light on present trends as well.

Overproductivity

In the words of the report:

> The plight of the industry was traced to feed dealers and others moving into it . . . they financed growers right and left, with the final

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[1] Report of Assembly Interim Committee on Agriculture, Vertical Integration, Family Farm, etc., January 1961.

> result being an over-production which reduced grower profits to zero, while it still enabled the feed men to make money since, under their gross-profit-splitting contracts, they did not have to account for depreciation on the grower's plant or pay interest on his investment. While gigantic promotional efforts had more than doubled California consumption per capita, the growers were still not making money, apparently because the integrator had no real incentive . . . to raise wholesale prices to the level which would have brought his "hired hands" the profit from sales he had already taken on the feed he supplied to them.[1]

An official of the Department of Agriculture, in testimony to the House Agriculture Committee in April of 1959, attributed farm losses in the poultry industry to "the rapid development of a specialized commercial production within the industry and the trend to contract farming and integration." Under integration, the farmer was sandwiched between fixed costs for poultry and feed determined by the non-agricultural contractor.

Losses

The same report documents in detail the losses in the egg industry, attributable to the pressures toward bigness which caused a serious over-production, reducing profits per bird. Reduced return then necessitated a farmer's maintaining a larger operation in order to obtain an adequate income for his family. According to the farmers, the U.S. Department of Agriculture and the University of California exhorted poultrymen to get bigger.

> And poultrymen followed this advice. Profit margins kept shrinking, and it took more and more eggs from more and more chickens to supply the operator and his family with a living wage.[2]

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[1] Ibid., p. 13.

[2] Ibid., p. 15.

Business-hungry feed mills, equipment producers, hatcheries anxious to sell over-produced chicks, investors anxious to find tax-saving devices--all contributed to the over-production. Hatcheries burdened with over-production contracted with farmers to simply raise the chickens, supplying both feed and chickens and paying the farmer a fixed amount per dozen eggs.[1]

One study showed that, under this type of arrangement, a farmer's net income from his labor for full-time work, at 5 cents per dozen eggs, was about $1,100 per year.

Market Manipulation

Farmers also described control of the market price by processors and wholesalers to keep the producers' price low, maximizing their profit on resale to retailers. Citing variations in the market unrelated to demand, farmers indicated that wholesalers "simply stated the price they wanted to pay . . . to force the poultryman out of business or into an integrated set-up." Wholesalers, they claimed, would stop buying when prices rose, forcing the prices down.[2] Under vertical integration, the farmers claimed, "the margins are so low you need to maintain a volume in order to stay in."[3] "The grower can't pay back his loans because of low prices, and the company, in order to make the investment bring in [illegible]thing, puts more chickens on the ranch, which depletes prices even further."[4]

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[1] Ibid., p. 16.

[2] Ibid., p. 17.

[3] Ibid., p. 23.

[4] Ibid., p. 25.

Conglomerate: Loss Farming

The foregoing distillate of the transition from independent operator to external vertical integration in the poultry market is a prophetic analysis of what is occurring today in other areas of agriculture afflicted with both vertical integration and competition from non-agriculturally based conglomerates. All of these elements--shrinking margin of profits due to the manipulation of the market and manipulation of costs of production, over-production and tax-loss farming--are being employed by conglomerates seeking to eliminate the small farmer or make him a vassal of vertical integrators.

Consider the inevitable impact on the small farmer of the enormous increases in production unsupported by an increase in market demand, which will follow from the addition of 450,000 acres of newly-irrigated land on the west side of the San Joaquin Valley as a result of the California Water Project. Add the factor that this land is owned by big businesses such as the Southern Pacific Railroad and Tenneco. In order to assure themselves of a market, many small and medium-sized growers will be forced to enter into long-term contracts with corporations who own or control processors or markets. The contract price, however, will not necessarily guarantee them a fair return in relationship to the cost of production. Production costs are similarly inflated by suppliers who extend credit to the small farmer. The combination of high cost and low market price will force even efficient medium-sized farmers out of business.

Conglomerate Tax Subsidies

The family farmer engaged exclusively in agriculture must derive his income solely from farming. His competitor, the conglomerate, realizes its gain from supplying machinery, equipment, feed and fertilizer at one end, and processing and marketing the product at the other. The gains realized from these fields and from non-agricultural enterprises are offset against a loss which it sustains in agricultural production. The loss is minimized or turned into a gain by taking income tax credits against the profits derived in the other, non-agricultural, fields. But the family farmer has no offset. He must sell his product at a loss, since his competitor sets the market price, or go out of business.

Land Speculation

In addition to tax advantages, the conglomerates realize a gain simply from the constant appreciation of real estate. Last year, the largest item of increase of agricultural assets was the enhancement of real estate value--a growth of $6.3 billion. Since the value of land is increased only on sale, this enhancement of assets against which the corporation can borrow funds is still not taxable until the year in which it is sold. Therefore, the speculative value of holding land and the economic leverage resulting from an increase in asset value, are further inducements to the corporation to invest in and utilize agricultural land.

Unfair Competition

The result of conglomerate entry into agriculture is that the single-activity farmer must compete against producers who not only corner the market through vertical integration, but produce at a loss, deriving the benefit not from profits on the sale of agricultural production, but rather from tax gains.

The effect on the farmer is the same as the effect on General Motors if Ford earned all of its money from the sale of refrigerators and air conditioners and sold its cars at a substantial loss. Within a few years' time GM would be out of business and Ford would be in a position to set the price on automobiles to suit its own profit standards, free from competitive restraints.

The transformation of the poultry-and-egg field is likely to occur in other crops. Over-production, then extrinsic control of market and costs, and tax-loss farming, will force many small and medium-sized farmers out of agriculture. Many of those who remain will be tied by contracts to vertically-integrated conglomerates as mere vassals or, as one farmer put it, "hired hands." Enormous industrialized farms will run for miles, interspersed with labor camps. Merchants in rural communities once surrounded by a higher density of farm owners, will lose some of their markets; the body politic of freeholders will shrink, and agricultural areas will be controlled by dominant land-owning corporations whose board members reside, not in the country, but in distant cities such as Dallas, New York and Chicago.

It is not too late to arrest these trends, by depriving big business of the subsidies and tax advantages which give obvious unfair business advantages over small and medium-sized farmers, and by excluding conglomerates from agricultural production.

Other programs can provide tangible assistance to the small farmer to enable him to reach levels of technological efficiency, and can encourage the development of cooperatives to obtain economies of scale, in the interest of maximized profits and productivity for the benefit of both farmer and consumer.

Finally, opportunities should be open to the farmworker --farmer without ownership--to enable him to achieve independence and self-sufficiency as a proprietor, rather than abandoning the land to "rot on the welfare rolls in urban slums."[1] Consistent with the views of agricultural economists, assistance to farmworker producers would be geared to the adaptation of the cooperative in order to attain maximum income and productivity in labor-intensive fields of production and economies of scale.

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[1] New York Times, editorial, December 28, 1971.

A number of specific steps should be taken by the federal government to restore conditions of maximum health for the small and medium-sized farmer.

1) Tax-loss farming could be minized by prohibiting tax credits resulting from the setting off of losses in agriculture against profits earned by non-agricultural subsidiaries.

2) Current tax laws which provide conglomerates with unfair tax advantages should be reviewed and modified to reduce the advantage deriving from land speculation and the competitive disadvantages experienced by persons earning the bulk of their income from agriculture alone. Speculation might be minimized by imposing a tax on increases in land values resulting from other than improvement of the land or increased economic value of the land attributable to increased earnings. The tax would be payable in the year in which the increase in value occurred. Owners who directly or indirectly derived their substantial earnings from agricultural production would be exempted.

3) To further reduce speculation, net profit from the sale of land could be taxed as ordinary income. An inordinate tax occurring in the year of sale could be reduced by application of the income-averaging provisions.

4) The existing laws establishing the small and medium-size farmer as the basic agricultural unit of production in America might be enforced--specifically, the law limiting the supply of water from federal reclamation projects to resident farmers owning 160 acres or less. Many

farmers who have contracted to divest themselves of excess acreage have not as yet done so. A measure is now pending in Congress, in both the House and the Senate, which would enable the federal government to purchase land in excess of the 160-acre limitation. If enacted into law, the bill could both reduce the acreage of some landowners and at the same time provide for the reapportionment of prime agricultural acreage among small farmers and farmworkers desirous of moving up to farm ownership.

5) Recognizing the unfair business advantages which conglomerates derive through tax-loss farming and land speculation, Congress should enact a measure, currently pending, which would altogether prohibit engagement in agricultural production by conglomerates or large, non-agriculturally-based enterprises. The significance of this bill would be to place farmers on an equal competitive footing. Ostensibly, income and profits would accrue from agricultural production. Market prices would be more closely related to the farmer's actual cost of production plus reasonable return, unaffected by external factors such as tax set-offs accruing from non-agricultural enterprises.

6) Small farmers can compete with large farmers efficiently, in the event that they are able to take advantage of economies of scale deriving from common purchasing, processing and even marketing. A program of technical assistance should be initiated, providing assistance to small

farmers seeking to modernize plant and equipment, who have combined in cooperatives which show a capability of reducing costs and maximizing gain from sale of produce.

7) A related program should be established to provide seed money and ongoing technical assistance to farmworkers seeking to take an ownership position in agriculture. The program might be integrated with related government projects, so that, for example, excess land purchased under the acreage limitation enforcement act would be leased to individual farmworkers who have formed agricultural cooperatives--again, to take advantage of economies of scale resulting from cooperative purchasing, processing and marketing. The seed money program would enable farmworker cooperatives to obtain loans from the Farmers Home Administration and commercial banking sources, providing for both capital development and operating funds. Technical assistance would carry the farmworkers over the transitional period, rounding out their skills and providing them with management training and experience.

8) A federal land bank could provide low-interest loans and loan guarantees to enable Southern sharecroppers to purchase property, expand farms or move to more advantageous long-term lease arrangements with private owners or the federal government. Once again, the use of the cooperative would be tied to the provision of assistance and financing.

9) A subordinate program would enable successful cooperatives to organize and finance ancillary services, such as rural health programs.

10) Farmers who expend efforts to and in fact attain optimal efficiency in production and utilization of their resources should derive a reasonable return from the sale of their product, related to the return which industrial sales yield. Similarly, farm laborers, providing an indispensable service in the food delivery chain, are entitled to parity with national industrial wage averages. A farmworkers' bill of rights would correct the disparities between benefits accruing to industrial workers and to farmworkers, under present laws and economic conditions. Farmworker minimum wages could be increased, over a period of years, to close the gap between the average farmworker hourly wage and the average industrial wage in America. Similarly, benefits such as unemployment compensation could be extended to the farm labor force.

11) Since agriculture meets a national market--fruits and vegetables can be air-freighted from one end of the country to the other in a matter of hours--the question of over-production and concomitant loss of income might be considered to be a national, rather than a regional, problem. Therefore, national marketing boards might be established to minimize cutthroat competition between farmers of competing regions. The marketing boards would function to

restrict productivity to that which the market is likely to reasonably absorb, minimizing uneconomic surplusses which benefit neither farmers nor consumers, but only maximize profits of middlemen.

While the national marketing boards would be voluntary, special privileges, such as federal loan guarantees, might be made available to farmers participating in the marketing boards as an incentive to participation and to maximize their effectiveness.

What is being proposed is no more than that which is possible and is now being implemented in, for example, our automotive industry. Similarly, costs can be precisely computed through analytical techniques such as linear programming and budgeting.

12) Finally, attention should be given, not to the solution of short-range problems, but to establishing a system which will also preserve and maximize the utilization of our limited natural resources for our children and their children. To this end, Congress should institute a system of agricultural zoning, beginning with a national survey of land resources and present utilization. The second phase of the survey would be to establish, based upon the climatological and soil conditions in each region, the most efficient uses to which the land might be put, in terms of specific agricultural, timber or mineral productivity. Next, agricultural economists would ascertain the most efficient units of production for the various uses to which land in

the sector might be put. Finally, variable acreage limitations would be established for all agricultural uses benefiting from some form of federal or state assistance, such as subsidies, loans or services. These limitations would be non-restrictive and would, rather, impose flexible guidelines to assure the highest use of the land. If, for example, the optimum acreage for a farm best suited for midwestern grain crops was 400 acres, farms in excess of 440 acres engaged in grain production would either be ineligible for public assistance such as government loans, or would pay a premium for such loans.

13) A corollary to the variable acreage limitation and regional zoning program would be the imposition of a graduated tax on excess land holdings. Acreage owned or controlled by a conglomerate, for example, in excess of the most efficient acreage appropriate for the growing of crops best suited for the region, would pay a tax based upon the excess acreage owned, increasing on a graduated scale. The excess-land tax would tend to reduce the advantage deriving from land held for speculative purposes, and reduce the pressure on increased land values related purely to speculation rather than to increases in productivity-related income. The excess-land tax would also discourage the ownership or control of giant farms.

As with excess land purchased to obtain compliance with federal reclamation project limitations, land substantially exceeding the variable acreage limitations would be sold to the federal government and held in trust for the future needs of our society. Land held in trust in a "land bank" could be leased to farmers, consistent with variable acreage limitations.

The reduction of adverse competitive conditions in agriculture, the introduction of more planning, the more equitable distribution of direct and indirect government assistance, will do more than arrest neo-feudalism in agriculture. It has the potential of reversing the migration away from farms, of stabilizing and expanding the economic base of our rural society, and maximizing for the future the utilization of our most precious and limited resource--the land. What is suggested is the fulfillment of the Jeffersonian ideal, adapted to a controlled technology rather than a technology that controls us, and an efficiency focussing on the realization of the individual farmers' potential rather than the anonymous, powerless, industrial model. It is no more than the practical and realistic fulfillment of dual elements of our American heritage: individual expression and maximal common good.

NATIONAL COALITION FOR LAND REFORM
By Sheldon L. Greene

Senator STEVENSON. I want to express my thanks to you, to Dr. Taylor, who I note is still in the hearing room, to all of the witnesses, as well as to Senator Taft, who is no longer here, to volunteers, and to the staff of the subcommittee, all of whom have made these provocative and, I would hope, fruitful hearings.

I will keep the record open, as I indicated earlier, should anyone care to submit any further statements.

What we do now with your testimony, Mr. Greene, is conclude 3 long days of hearings in California on such questions as who owns the land in rural America, whether the use of the land is consistent with the interests of small farmers, farmworkers, and the 208 million American consumers, taxpayers, the people.

The hearings have, I believe, shown conclusively that our policies toward rural America are not what they should be. Instead of encouraging the rural growth necessary to balance the swelling of the megalopolis, the policies tend to encourage the depopulation of rural America and the dehumanization of rural and urban America.

Instead of encouraging efficient small farmers to turn a profit, tax laws encourage syndicate farms and inefficient corporate giants to farm at a loss.

Our policy of subsidized mechanization gives agribusiness bigger profits while putting small farmers and farmworkers on the unemployment rolls.

The remedy for policies out of phase with the needs and the ideals of America must be new ones. Yesterday in the San Joaquin Valley a Mexican-American concluded his testimony with a request to the subcommittee. He said, and I quote him,

> Please make it possible for my people to be able to buy their own land and to care for it with hands that are full of love for the soil. As a simple man, I do not know how this can be done, but, if it is, we will be able to build a life for ourselves that will make this country more fruitful.

He and others deserve that chance, and I think it is up to the Congress to give it to them, to find a way to make it possible.

That, my friends, is what the hearings for the past 3 days have been all about. We will try to find some ways.

Thank you.

At this point I order printed all statements of those who could not attend and other pertinent material submitted for the record.

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Land Reform: A New Group Helps Poor Retain Their Land

SOUTH CAROLINA'S SEA ISLANDS HAVE ONLY RECENTLY BEEN DISCOVERED BY DEVELOPERS

(By Shimon Gottschalk)

The new, nonprofit corporation, Black Land Services, Inc., now in the process of formation in Beaufort, S. C., represents the first major effort in over a century to rectify the betrayal of the black man's dream of land ownership which was born with General Sherman's Headquarters Order Number Twenty-five. The order, issued in Savannah in 1865, divided 485,000 acres of Georgia and South Carolina coastal lands among some 40,000 former slaves and was designed to create a class of free, independent, self-sufficient black farmers.

By 1860, more than two-thirds of the coastal population of South Carolina was black, yet nearly all of the land, except for a few "uncivilized" islands, was claimed by planters. Abandoned by their masters in the wake of advancing federal forces, these former slaves had a long history on the lush, moss bearded South Carolina sea islands. Some of the smaller islands had served as a first place of refuge for runaway African slaves who jumped overboard as their ships approached the continent of their destined servitude. After the Civil War ended, those blacks who stayed on to till the ravaged fields of their former masters found their legacy to be one of hunger and deprivation.

In 1869 the South Carolina Land Commission was established by the state legislature and for a period of 20 years, it served the interests of the freedmen in their acquisition and tenure of former plantation properties. It was one of the most dramatic stories of land reform in American history. But in 1890 the Land Commission Act was overturned and poor black farmers were again betrayed. Since that time, at an ever increasing rate, wealthy land speculators have connived to recapture the land which the former slaves had won at such high cost.

South Carolina's sea islands, bypassed by the sweeping industrialism, technology and agribusiness of America, have only recently been discovered by developers who find in their virgin beaches, their vast, mysterious oak forests and grieving marshes a lucrative potential for the nation's burgeoning tourist industry.

It was Dr. Donald Gatch, a Bluffton, S. C., internist, who also brought to the attention of the American public some facts which were not likely to be incorporated in the colorful and inviting brochures of the affluent tourist colonies which were growing up at Hilton Head, Fripp Island and other South Carolina sea islands. Dr. Gatch testified to the fact that children were dying of starvation in South Carolina, that Kwashiorkor, a protein deficiency disease common to the most underdeveloped areas of the world, was rampant among preschool children in Beaufort County. In nearby Williamsburg County, 83 per cent of the population is reported to have incomes below the federally established poverty level. Yet it is estimated by the governor's office that in South Carolina less than half the families eligible for food stamps in the state are getting them.

The lands inherited by the blacks, have often proved only a liability to families who have no money for seed or fertilizer and no cash when taxes are due. Some farmers are simply too poor for the Farmers Home Administration. The FmHA loan application procedure is too tedious and complex and more often than not, the "man" will refuse to listen to a farmer who has no clear title to his property. These families are poor not simply because they have little or no income; they are condemned to the perpetuation of their poverty because they have no capital, no credit and no collateral.

At an ever increasing rate, these lands with their magnificent bearded oak trees, wild azaleas and honeysuckles have been swindled by quasi-legal means from beneath the feet of their rightful heirs. For the price of taxes due—sometimes as little as $15 or $20—acreages are lost at public auction. The court house sale is called for 9 a.m. and completed at 9:01 a.m., before anyone can comprehend what has happened. Lands purchased at small cost per acre are sometimes resold at 20 times their original price as resort and hotel properties.

According to the law of the state of South Carolina, if an owner of landed property dies and leaves no will, it is divided equally among his heirs. Ownership, not the land itself, is so divided. As a consequence of this law, the ownership of most properties held by black people in South Carolina is spread among a multitude of individual heirs, persons living throughout the Nation. Some are minors, some are aged and infirm, some are presumably deceased and still others cannot be found. The family which actually lives on the land and farms it has no greater, or special claims upon it.

To trace all of the living heirs of a particular property generally takes years, and the legal costs are likely to be excessive; but that is not the worst of the problem. If any single one of these heirs has taken a loan and placed a lien upon his share in the land, then in the event of default, the lender can force a partition sale of the property. The land is sold at public auction, often at a price far below its market value, and the proceeds are divided among the heirs. Thus, by gaining control of only one of the shares, unscrupulous land speculators can force a sale which will almost certainly accrue to their personal benefit.

Partition sales, tax sales and foreclosures are the methods used by the land robbers to deprive poor people of their inheritances. Yet without land, the ultimate source of nearly all of man's nurture, without a secure claim to this most fundamental of all birthrights, there is a little hope for the future of the rural poor, especially black people in South Carolina.

The primary aim of "Project Black Land" is to halt the continued alienation of poor people from their property, the foundation of the economic development of the South Carolina low country. Project leaders include attorney Charles Washington, Jr., of Beaufort, S.C.; John Gadsen of Penn Community Center in nearby Frogmore; and Rodney Albert of the South Carolina Council on Human Relations. The project will operate as Black Land Services, Inc., a nonprofit corporation now being designed with the assistance of the Black Economic Research Center of New York City. Among its proposed initial functions:

1. A survey and inventory of black owned properties, with special attention to their legal status.
2. A legal assistance program to black land owners, including "preventive law education."
3. Establishment of a land fund to be available in case of emergencies in order to prevent tax sales, foreclosures and partition sales.
4. Development of a mechanism whereby, when necessary and desirable, the corporation can participate in land sales as a buyer, holding land in charitable trust, either in behalf of the individual owner or in the name of the community.
5. Challenging the constitutionality of partition sales under the 14th Amendment of the U.S. Constitution.

The establishment of Black Land Services, is, of course, only a first step. It must be accompanied by economic development programs which have their basis in the land. A number of producer cooperatives are already in existence, such as the Oyer Coop in Bluffton, the Hilton Head Island Fishing Cooperative and the Sea Island Farmers Cooperative Association of Frogmore. Penn Community Services is the center of efforts to stimulate further such developments—efforts which are directed less at the probably unrealistic expectation of major outside industrial investments, than at the development of indigenous talent and resources.

The next step in the economic development of this area might be taken by the establishment of a community controlled land bank. Such an organization, which would not only serve to hold land for community purposes and help rescue individual land owners, might also step into the much needed area of land management. If, indeed, some of the island properties are worth millions in their potential as tourist havens, then the increase in value should accrue to the benefit of the community. It is a potential source of revenue which far exceeds anything that may be derived from other, outside sources. Moreover, decisions concerning the development of the land, will be more nearly in the hands of those who have worked it for generations. Such cooperative ownership of property would, in a sense, be a return to a system developed by freedmen on these same islands over a hundred years ago. At that time, during the midst of the Civil War, former salves pooled their meager resources in order to be able to buy land from the temporary Federal authorities.

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A Southern Land Bank Proposal

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A paper prepared by the
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for the

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A Suggested Proposal to OEO for a Southern Land Bank Project

Submitted by the Black-Economic Research Center

As of 1966, there were 11.8 million black people living in the South, some 55 percent of the total black population. Of this number, more than 4 million lived in rural areas. Both of these figures have been declining over the past several decades as the attractions offered to blacks by northern and urban communities have easily outshone the dismal promise of the South, and most especially, of the rural South.

The individual motivations responsible for this massive transference of population may defy cataloguing. However, the failure of rural and southern areas to provide the black man an opportunity to lead a life in dignity and self-respect, with a degree of economic security and progress, has certainly been a major contributing factor.

Unfortunately, the decision to migrate has not always proved to be a route to a better life for blacks. Whereas the heavy migration of blacks to the urban north which characterized World War II was largely inspired by the prospect of widely available employment at good wages, the migration of the fifties and sixties derived primarily from the economic crisis confronting unskilled farm labor in the south as the mechanization of agriculture, and especially the machine harvesting of cotton and corn, swept the South. For example, "in the space of only three years from 1949 to 1952, the use of unskilled agricultural labor in twenty Mississippi delta counties fell by 72 percent, and five years later was down to only 10 percent of the 1949 level".[1]

Unlike the forties, however, the decade of the fifties was one of sluggish economic activity in America and the norhtern urban economies were unable to absorb this flood of unskilled immigrants. Simultaneously, the demand for unskilled industrial labor was being reduced by the expanding adoption of automated procedures in industry. One of the dramatic and persisting results of this combination of circumstances was the swift growth of urban slum areas, an accelerated deterioration of many already unhealthy major cities, and the emergence of what is currently being euphemistically termed "the urban crisis".

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[1] Daniel Fusfeld, "The Basic Economics of the Urban and Racial Crisis", Research Seminar on the Econimics of the Urban and Racial Crisis, Dept. of Economics, The University of Michigan, p.11

Any effective attack on the urban problem cannot ignore the roots of that problem, which is to say, it must attempt to deal with the poverty of black people in the rural South. There are a number of fronts upon which this poverty must be attacked. One of the most obvious, of course, is that of assuring that the existing governmental programs designed to assist rural people are genuinely placed at the disposition of black people. Bitter experience, however, has demonstrated how difficult it is to achieve this in the southern states. Additionally, racial discrimination in the administration of government programs is merely a major but by no means the sole deterrent to the availability of existing programs for southern black folk. A second objection is that many of the programs--e.g., the Bank for Cooperatives and its sister institutions--are designed to help the solvent farmer. They cannot deal meaningfully with the problems of the very poor, be they black or white. These very poor people have no credit standings, no assets, often very little in the way of skills. Thus, they usually fail to meet the minimum qualification for participation in existing programs.

What the area urgently requires is an institution, or a series of institutions, which would have as their objective the creating of economically viable family units whose labor power, however unskilled, would be building up an equity for them. It is of the utmost importance that these descendants of slaves, these families which have never owned anything of substance since their arrival in North America hundreds of years ago, be afforded a means to acquire some minimal amount of wealth and to enjoy a modest degree of security. A legacy of dependence, whether on plantation masters or on federal doles, is not a sound basis for self-respect.

The Black Economic Research Center would like to propose that OEO organize, (or if it prefers to undertake a demonstration project, that it either make a contract or a grant to an independent organization such as the Black Economic Research Center for this purpose) a new institution dedicated to the goals of: (a) facilitating the transference of land to poor, especially black, rural people; (b) facilitating the improvement of this newly acquired land through the construction of housing, the provision of water, and similar appurtenances and (c) facilitating the development of profitable employment opportunities on this land.

Without specifying what the final design of such an institution might be, the following broad outline may be suggestive: For black people particularly, the problem of land acquisition has been second only to the problem of land retention. In the years following the Emancipation Proclamation, black people received title to a not insignificant portion of land in the South as bequests from former slave masters or as inheritences via illegitimate unions which were for one reason or another publicly admitted to. These black landowners tended to be uneducated and totally ignorant of the legal intricacies involved in land titles and property ownership. Given the growing hostility toward the black man in the South from 1877, and especially from 1890, onward, it is not surprising that these simple black folk had great difficulty holding on to whatever land they had. There were no black lawyers or black real estate agencies in the South to protect their interests, and for the civil authorities to connive with their white compatriots at the expense of the blacks was the rule rather than the exception. With the advent of the migration to the North at the time of the first and second World Wars, the decline in black land ownership became calamitous. During the period 1950-1964, the acreage owned by blacks in the South declined by 40%. Indeed, it is probably not inaccurate to say that white people own more of North America today then at any time in history and this percentage continues to rise. Meanwhile, black Americans, whose stake in the United States is increasingly being viewed by them as tenuous at best, are rapidly losing title to what little land they do have.

Consequently, a meaningful attack on rural black poverty should confront head-on the problems both of land ownership and of techniques to insure that the sad history of many other land reform movements is not repeated here. Not only must the rural poor be provided with land, but their long term rights in the land must be adequately protected. Many black people in the South are acutely aware of the problem of land retention and are exploring the idea of developing an institution which would collectively own land on behalf of those who live on it. The community institution in which title was vested would lease the land on a long term,-irrevocable basis to those who lived on it, thus providing the dwellers with an instrument which would have value as an asset. Improvements on the land could be made by both the community and by the individual; in the latter case, title to the improvement would rest in the dweller and could be sold by him to the community should he move off the land.

The collective ownership feature is, of course, not a sine qua non for a large scale transference of land to poor black folk. It can be done on a straight private ownership basis, but hopefully with some "title protection" built in. Presumbably, plots would be contiguous so that opportunities for cooperative efforts would nevertheless be available.

At least two types of financial provisions would be required to realize such a land reform effort assuming the land was acquired through community purchase: a mortgage plan and an equity plan. OEO would need to guarantee the mortgages on the land. It would also have to provide the equity portion of the transaction, in the form of a long term or deferred payment, interest-free, second mortgage loan. Additionally, OEO would have to subsidize the interest rate on the first mortgage.

An alternative approach to providing land ownership for poor people would be to revive the concepts of the Homestead Act, from which black people obtained so few benefits. Many black people feel, with some justification, that the government should give them land just as it gave land away to white settlers who came to America during the slavery and post emancipation era. There are, of course, a variety of difficulties with such a proposal, despite the fact that the federal government is the holder of record of some 33% of the total acreage of the U.S. Much of this land is not suitable for human habitation and much of it is located in areas where black people do not live. Nevertheless, there are publicly owned parcels scattered throughout the South which would be ideally suited for such a project. The Departments of Defense and of the Interior are both large title holders to such land, as are other Departments to a lesser degree. OEO should not only arrange to obtain preferred access to such public lands as they become available from time to time: it should actively intervene to obtain suitable pieces of idle public land for redistribution to the poor under a program such as is outlined herein

In addition to assisting in the transferal of title to the land, the proposed new institution should facilitate the development of income-producing programs which would enable the new land owners to sustain economically viable family units. At one extreme families on welfare should not be excluded from the program. Rather, inasmuch as their meager stipends must cover a rental payment to someone, how much better to permit this payment to be used to purchase some equity in a piece of real property! On the other hand, a major concomitant effort must be made to assist these new land owners to become self supporting. In some cases, this will mean the development of truck farming; in some, it may mean large scale cultivation on a cooperative basis; in some, it can mean that processing facilities, or perhaps some industrial opportunity, will have to be developed--perhaps with a heavy government subsidy during an initial period. Since Such a subsidy would be largely in lieu of a welfare payment, and would very likely have beneficial long-run social effects, it might very well be an economical way of dealing with rural poverty. It is certainly likely to be cheaper than undirected migration with the attendant incalculable costs in terms of urban and human deterioration.

A rural development program with a land ownership basis such as is being proposed herein, would be a test of the salvageability of at least some vestige of the Jeffersonian concept of America. Whether America's countryside will be totally swallowed by the agri-business or will continue to be a place of residence and employment for a significant, if reduced, number of modest income people, is one of the profound questions confronting our society today. Indeed, it will heavily influence the future shape of that society. Four million rural black folk in the South are in dire need of help, and the urban slums do not offer the help which they seek. OEO has an historic opportunity to pioneer an alternative route for these long suffering people.

THE FAMILY FARM IS THE MOST EFFICIENT UNIT OF AGRICULTURAL PRODUCTION

Prepared by Angus McDonald
December 29, 1967

Over the years there has been a vast propaganda campaign designed to convince the American people that the gigantic factories-in-the-field which exist in California and several other states should be models for all farm units. This campaign to discredit the Farmers Union idea that the family-type farm is the most desirable unit of agricultural production has been aided and abetted by economists in land grant colleges and in agriculture departments of universities. Editors of magazines, newspapers and no doubt many millions of people have been brainwashed and have consequently accepted without question the idea that the family farm is inefficient and that super-farms, owned and operated by millionaires and conglomerate corporations, represent the wave of the future.

Swept under the rug, ignored and suppressed are many studies which have been made which prove without any reasonable doubt that the small or medium-sized unit is more efficient than the large corporate unit. A number of economists apparently have been quietly working, gathering information in many parts of the United States. A recent publication of the Department of Agriculture represents summaries of these studies made in various areas of different types of farming under a variety of conditions. The overwhelming conclusion of this study, a composite of 138 studies which have been made in the last few years, leads to the inescapable conclusion that big farming is inefficient.

These studies, based on solid facts, are not wishful thinking. They are the result of hundreds of analyses of the costs and the gross profits which go into many types of farming including fruit, grain, livestock, cotton, vegetables, alfalfa and dairy. These studies put the finger on the point of diminishing returns which is soon reached when the farm is unduly expanded or too large for efficient operation. Here are a few examples:

(1) FRUIT FARMS IN CALIFORNIA

On the non-mechanized peach farms in Yuba City in the Maryville area of California, average production cost per ton of peaches declined up to a productive unit of about 60 acres (average production was 715 tons of peaches). Beyond that size slight reductions in harvesting costs and machinery investment per acre were realized, but these were offset by increases in costs of hired supervision.

On the mechanized peach farm the average cost declined up to a farm size of between 90 and 110 acres. After that point there was no reduction in cost on larger units.

(2) IOWA CASH GRAIN AND CROP-LIVESTOCK FARMS

(a) Southern Iowa

The hilly farm in Southern Iowa showed lowest costs for a unit of about 320 to 360 acres. This represented a 2-man operation and a 3-plow tractor. The cost revenue ratio was 0.95. This figure means that the livestock-grain farmer had to spend 95 cents for every dollar of gross income.

On upland farms in Southern Iowa the cost revenue ratio was much lower. A 1-man, 3-plow tractor farm of 160 acres produced $1.00 of gross income for every 62 cents in costs. Two-man farms showed a little better ratio -- a 320 acre farm with two 3-plow tractors only had to spend 57 cents for every dollar of gross income. However, cost advantages in larger units were less than the 320-acre farm.

(b) Western and Northeast Iowa

A 280 acre farm with a continuous corn program came out with a cost revenue ratio of 0.42. Under a 5-year rotation the lowest cost on a farm of 320 acres was 0.46. Under current cropping practices a 400-acre farm also resulted in a cost revenue ratio of 0.46. For Western Iowa costs were considerably higher. This study showed little difference in costs (only 2-cents per $1.00 of income) in Northeast Iowa between 400 and 800 acres.

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(3) IRRIGATED COTTON FARMS IN TEXAS AND CALIFORNIA

(a) Texas High Plains

This particular study concluded that a 1-man farm with adequate capital could be as efficient as any of the larger farms. A 1-man farm of 440 acres, with 102 acres of cotton and 6-row machinery resulted in an expenditure of 71-cents for every dollar of gross income. None of the larger farms could go below this. Here is a summary of the Texas High Plains farm statistics:

COST REVENUE RATIOS

1-Man - - - - 120 to 240 Acres = 0.732
1-Man - - - - 240 to 680 " = 0.708
2-Man - - - - 560 to 920 " = 0.73
3-Man - - - - 880 to 1,280 Acres = 0.709
4-Man - - - - 1,200 to 1,520 Acres = 0.711
5-Man - - - - 1,480 to 1,800 " = 0.712

(b) Fresno County, California

On heavy soils in Fresno County, California costs of producing cotton proved to be lowest on a 4-man farm of 1,134 acres. The cost revenue ratio was 0.85. On a 1-man farm of 270 acres, the cost revenue ratio was 0.91.

However, on light soils in Fresno County a 710 acre, 4-man farm proved to be most efficient. A 1-man, 193 acre farm had a cost revenue ratio of 0.83, the 4-man farm had a cost revenue ratio of 0.76. There was no increase in efficiency after this point. The study included farms up to an 8-man operation.

(4) CALIFORNIA CASH CROP FARMS

This study, based on farms in Yolo County, included sugar beets, tomatoes, milo, barley and safflower. Cost per dollar of revenue on these farms declined sharply up to about $100,000 of revenue. The cost revenue figure on these farms was 0.70. On farms of 1400 acres which produced on the average about $240,000 worth of products, the cost revenue declined to 0.65. After that point the cost revenue statistic increased to 0.72 at $440,000. There was no decrease after that on larger units.

Conclusion of the author of this study was that there was no economic incentive to operate extremely large farms -- 600 to 800 acres could compete with larger farms. The difference in cost was slight and risks pertaining to management on larger farms were considered greater.

(5) IMPERIAL VALLEY VEGETABLE CROP FARMS

This particular study concluded that with contract services long run costs are constant from very small farms up to 2400 acres. Another conclusion was that the Imperial Valley farmer achieves no advantage in owning equipment and actually has advantages over larger farms which own equipment used at less than full capacity. This assumes that contract facilities are available for the small and medium-sized farms. The general conclusion is that there are no significant economies based on size.

(6) KERN COUNTY CASH CROP FARMS

In this area the 640-acre unit was most efficient. After that point costs per revenue dollar began to climb. The following table indicates the economies based on size:

Table 6.--Cash crop farms, Kern County, California: Total cost per dollar of crop revenue for three cropping programs

Farm size (acres)	Cost:revenue ratio for--		
	Cotton-alfalfa farms	Cotton-alfalfa-potato farms	Cotton-alfalfa-barley-milo farms
80	1.06	1.06	1.00
160	.96	.94	.93
320	.92	.91	.91
640	.91	.89	.89
1,280	.94	.93	.91
3,200	.96	.93	.92

Source: Calculated from data in Faris and Armstrong Study.
California Experiment Station
Giannini Foundation Res. Rpt. 269

(7) WHEAT FARMS IN THE COLUMBIA BASIN OF OREGON

In Oregon, 1-man wheat farms achieve lower average costs than the two or three man farms. However, on farms smaller than 1,000 acres the costs were slightly higher. The following table indicates that increases in size beyond 1,000 acres resulted in increased costs.

Columbia Basin wheat farms: Average cost and operator earnings for selected farm plans using the moldboard fallow operation

Farm size	Basic resources		Full-utilization farm plan			
	Men	Tractors	Acres	Gross farm income	Operator income	Cost:revenue ratio
Small-------	1	One 30 to 40 HP	1,000	$24,572	$3,669	0.85
Medium------	1	One 50 to 60 HP	1,600	39,317	5,629	.86
Medium-large	2	Two 50 to 60 HP	2,500	61,420	5,429	.91
Large-------	3	Two 50 to 60 HP, one 25 to 35 HP	3,600	88,462	5,252	.94

(8) DAIRY FARMS

(a) New England

The most efficient unit on dairy farms in New England was a 2-man operation with 70 cows and costs estimated at $2,000 a year for labor and management. However, if no charge is made for labor, the 1-man operated farm with 35 cows achieved lower costs.

(b) Iowa Dairy Cash Grain Farms

On farms in Iowa in this category there was only a slight reduction in costs as herds were expanded from 34 to 58 cows. The cost revenue ratio was relatively higher -- 90 cents expended for $1.00 of gross income.

(c) Arizona Dairies

Average costs declined sharply up to a herd of 150-head. However, management difficulties typically occurred when the herd reached a size of 150 to 175 cows. This problem resulted from (1) feed waste increases with herd size; (2) difficulty in varying the level of grain feeding relative to each cow's production because of variation among cows, and (3) management, supervision and coordination duties became more difficult with resultant decline in efficiency of operation.

(d) Minnesota Dairies

A study based on dairying in Minnesota indicates that the 2-man dairy with 87 cows and a farm of 490 acres achieved a cost revenue ratio of 0.82. A 1-man, 48 cow, 290 acre operation was slightly less efficient. The cost revenue ratio was 0.84 on this farm size.

(9) FEEDLOTS

Several studies have been made to determine the maximum efficiency of feedlots based on size. According to one Colorado study, feedlots with between 1700 and 4000 head on feed at a time with a 15-ton feed mill were most efficient. The feedlot with 4000 to 9000 head on feed at a time with a 50-ton mill was most efficient. This study indicates that economies of size obtained by feedlots feeding over 1500 head are too small to have any appreciable effect on the average cost of producing beef.

A USDA study concludes that economies of size are attainable in a size range of 1500 to 5000 head. Beyond this point the cost curve declined slightly, but the savings were insignificant. All of these studies indicate that there is no economy resulting from the gigantic feedlots such as those operated by the National Tea food chain and the Gates Rubber Company. These feedlots are apt to be much less efficient because they are not operated at full capacity. Consequently the percentage of fixed costs are greater than in the small feedlot.

Migrants Farm Own Land at Co-op Campesina

Strawberries—and squash, temporarily—are the means for pioneering a new economic concept for twenty-five Mexican-American families in California's Pajaro Valley in Santa Cruz and Monterey counties.

Last April, Phillip Sanchez, then OEO's director of operations, turned the first spade of dirt in an 80-acre spread of soil.

Recently, now OEO's director, Sanchez went back to taste the first strawberries which came from the land which had been initially "fertilized" with a special $100,000 OEO grant.

The first $40,000 of this pilot project funding was turned over to the 25 families at the groundbreaking ceremonies. Sanchez presented the check. The rest of the grant has since been paid.

Then, with the continuing advice of the staff and board of the Central Coast Counties Development Corporation, and technical assistance from the University of California Agricultural Service, these charter family members of Co-op Campesina began tilling "their own" land instead of working as migrants on the land of others.

Each family was allotted a two-acre plot and they jointly agreed to plant 30 acres of squash at first as a

Two young girls box squash which was initially planted as quick money crop before strawberry season began.

A priest blesses the land before the squash crop was planted.

This young lad continues to plant but can't keep his eyes away from the camera.

The whole family, from oldest to youngest, help plant first strawberries.

"quick money" crop until the strawberry season arrived. (Only 13 of the 25 families planted squash.)

Though each family worked its own plot, seeding, fertilizing, and marketing and use of equipment was done jointly. Each plot was checked as to production.

The first squash harvest came last July and August.

Cash returns are in on the first squash planting and the results indicate that each of the 13 families earned about $2,176. Some 903, 30-pound boxes of squash were taken from each cultivated acre.

Strawberry planting and limited picking on the larger acreage has only just begun but about 115 acres will be planted to strawberries by mid-1972, and should return about $600,000 in gross sales, it is estimated.

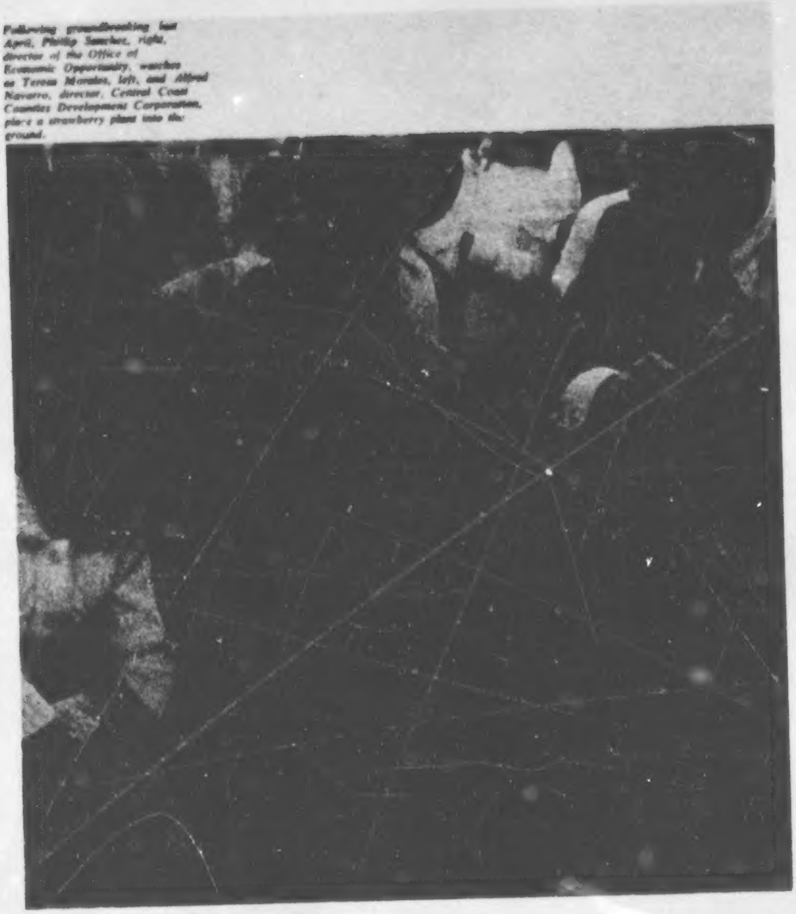
Based on net return, each of the 25 participating Mexican-American families, two-thirds of whom were below the poverty level before the project, can expect to earn about $10,000 each.

Overall, Cooperative Campesina is a pilot model of a self-sustaining economic entity through which the low-income rural poor can use to elevate themselves above the poverty level.

And though OEO pioneered the concept and initial funding, it was not alone in giving financial assistance to the formerly poor migrant families who banded together.

After the Farm Home Administration declined to participate, Wells Fargo joined in with an $150,000 crop loan which will be repaid from strawberry sales in 1972.

And while Cooperative Campesina has still a way to go, it appears headed toward reaching its goal of giving "the farmworker or sharecropper the same economic independence enjoyed by the majority" of Americans.



Following groundbreaking last April, Phillip Sanchez, right, director of the Office of Economic Opportunity, watches as Teresa Morales, left, and Alfred Navarro, director, Central Coast Counties Development Corporation, place a strawberry plant into the ground.

OEO Grant to Pic 'n Pac Farm Workers Raises Many Questions

(By Allan Grant)

Last month the Office of Economic Opportunity made a grant of $450,000 to be used to form cooperatives among farm workers to take over 500 acres of berry production of Pic 'n Pac Foods, Inc.

As perhaps you will recall, Pic 'n Pac, a processing firm, and Salinas Strawberries, the largest single strawberry producer in the Nation, were purchased by S. S. Pierce Co. of Boston several years ago and were operated under the name of Pic 'n Pac.

Shortly thereafter, the United Farm Workers Organizing Committee demanded to represent the field workers. Not wanting to risk a nationwide boycott of S. S. Pierce brands, Pic 'n Pac signed a contract.

Last October, Pic 'n Pac announced it was getting out of the farming business because it was losing money on that portion of its operations. Blame for the losses incurred was laid on mismanagement, and on the inability of UFWOC to provide sufficiently trained workers to harvest berries at a reasonable cost.

At that time, according to Pic 'n Pac president David Walsh, the firm held investments in 700 acres of first- and second-year berries which it was offering for sale. However, there were no "takers" because of the successor clause in Pic 'n Pac's contract with UFWOC.

Initial attempts by Pic 'n Pac workers to obtain an OEO grant to take over the berries were foiled because accompanying conventional financing could not be obtained to purchase the berries. (OEO grants thus far cannot be used for outright purchase of land or production, only to train and assist workers in operating that business.)

It has now been reported from a reliable source that Pic 'n Pac's president David Walsh has arranged private financing for the workers to purchase the berries—of course, the workers will have to pay him back, undoubtedly through an assessment on each box of berries they harvest. In addition, Pic 'n Pac also has arranged to market the berries for the workers' cooperatives.

No matter in how much "social good" Pic 'n Pac wraps this deal, it has the appearance of a large corporation using the Government—and farm workers—to recoup what it can of its losses and to set itself up, make some money in marketing and/or processing of the production of government-financed cooperatives.

But the grant raises many more questions beyond those of Pic 'n Pac's possible gains.

Most strawberry producers are not large operators. They are, in fact, small growers, with the median average being between six and 20 acres. While many do market cooperatively, they receive no Government assistance. So what we have is one group of small growers financing their own operations while another group receives Federal financing. Obviously, those financing their own operations are going to be at a competitive disadvantage.

What happens when the berries the workers are purchasing have to be replaced?

The majority of production in California is now on a 1-year basis—2 years is considered the maximum life for economic production. It costs $2,500 per acre to bring strawberries into production. Where will this money come from? In paying back Pic 'n Pac, plus trying to eke out a living, it seems highly unlikely that the farm workers will have money available to set aside for future investment. And since the venture was not viewed as suitable for conventional financing initially, what likelihood is there that such financing will be available in the future? Won't this venture have to be continually federally financed?

But most important, what about the farm workers themselves who will be participating in this venture? According to reports from the OEO, theoretically the farm families will receive in return for their labors an income of $10,000 per year. Also theoretically, the family will consist of six workers who will handle 3½ acres. That figures out to about $1,600 per worker.

Sharecropping in California strawberry production is not new. In many instances families supply the labor while the grower supplies the land and the inputs. The net returns are divided. According to growers who work with sharecroppers, the families can and do earn between $10,000 and $20,000 per year handling two to four acres, with the average running about $15,000 for three acres. Thus, is it such a good deal for those farm workers who will participate in the cooperative? They could certainly make more money working as sharecroppers. And there is a question as to whether they could not make more by working as pickers.

The berries in the Salinas Valley will be ready to start harvesting in April. A 500-acre operation in strawberries—the acreage of berry production assumed by the cooperatives to be formed under the grant—is a tremendously large unit. Can a cooperative be put together with untrained people in time to perform the cultural practices and get the berries off this season? Or will we simply have wasted $450,000 on a social experiment?

And the whole matter brings up one final question: Is this going to become a pattern . . . for UFWOC to break a farming operation, then—with Federal funds—have its members take over that operation?

An occasional bulletin May 1972

community economics

Center for Community Economic Development

Geoffrey Faux: Rural Poverty & Land Ownership in Maine; Ralph Nader: Property Tax; Randolph Blackwell: Land Bank; John McClaughry: The Town as CDC; The National Coalition for Land Reform; Testimonies from Senate Hearings; Bibliography on Land Reform

land

The consensus is widening that a critical part of the effort to redefine the terms under which communities exist, and concomitantly their efforts to deal with the problems of poverty and poverty itself, has to do with the issue of land: the way it is owned, the way it is assembled, the way it is used, the way it is defined. It is an issue that cuts across both the differing problems of rural areas and the similar problems of urban ghettos. Land is both the dominating resource in rural areas and the one from which the poor in the city have been systematically excluded. Most critically, it is a key determinant of income distribution.

In the South, the loss of land by black people has been a primary contributor to their lack of economic power. In Appalachia, the physical undermining of the land through the expropriation of mineral rights by mining companies has scarred both the land and its people. In the Southwest, conflicting claims about the land—about who owns it and how it is to be used—has led to violence and corruption on a grand scale. In the nation's cities, the speculative frenzies that land is subjected to, the fervour with which land is handled as a commodity, has made the annihilation of communities where poor people live only a matter of time.

Our discussion here barely begins the subject. For example, we have not attempted to analyze the legal issues involved, although the legal issues, and more important the way the legal system legitimizes social reality, are central to the problem. That is a large discussion that has to be made elsewhere. Similarly, we have not made any effort to comment on important work in land reform in other countries. Both subjects need volumes.

The attempt here is much more modest: It is to get community groups, particularly CDCs, to reflect on the problem, shape a framework for understanding it, and in the process begin to act. More than a few CDCs have already committed themselves to the issue. Their experiences – in Chicago, East Boston, Georgia, New Mexico, California – will be telling.

The discussion is modest, too, in that it concentrates on rural areas, even though the question of who controls land in the city is going to be pressed with increasing vigor during the next few years, and probably will come to be *the* burning issue a few years from now. But it is in rural areas, we feel, that the issues surrounding land use are easier to enunciate; they are less intertwined with other matters.

In agriculture, of course, the long-term movement is toward larger and larger farms. Thus, if poor people's organizations are to succeed in agricultural production, some way of assembling larger plots of land has to be found. It is worth noting that the original OEO bill reported out of the House and Senate Committees in 1964 provided for a land bank for the rural poor operated by the Department of Agriculture.

This is the second in an open ended series of occasional bulletins on issues in community-based economic development. The first, May 1971, dealt with a variety of more general topics, but the succeeding issues will be focused on a single topic. The current issue concerns land use and abuse. The next bulletin will concern problems in housing development faced by community-based groups, and mechanisms for solving some of those problems.

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On the other hand, the long-run trends in recreation and tourism are both a threat and an opportunity for poor people. Tourism and recreation are among the fastest growing industries in the American economy. We can expect that they will continue to grow as incomes increase and as the congestion of urban areas make vacations in rural areas more important to urban people. In many rural areas, in fact, tourism and recreation are the most important economic forces in a century, promising to open up all kinds of opportunities for the unemployed and underemployed, particularly insofar as recreation has become an all-year round activity.

But for the most part, tourism is still randomly planned, which has caused over-development, and brought in its wake congestion and pollution. Moreover, it becomes harder for the small businessman to make a profit. Over-building drives returns down and only the larger corporations have the staying power to hold onto the land and exploit it in a *rational* manner.

The activities of the large pulp and paper companies are a case in point. These companies, which own or control millions of acres of land in rural areas in the South, Appalachia, northern New England and the West, are now going into the recreation business. Having observed the economic futility of the small business approach to tourism, the big companies are assembling land for vacation home sites, recreation complexes, and the like.

The result of all this is to worsen the life of the poor. Land prices increase, cost of living goes up, and the places where the poor have hunted and fished to supplement the family diet are now closed to them. Even the concern with ecological matters seems to work against the poor in the long run in that it reduces the likelihood of attracting industry, which further reduces the opportunities for jobs.

So ways have to be found to deal with the problems of the poor without exacerbating them in the process. One approach, which CCED is going to explore over the next two years, involves the use of community-based economic development organizations as the basic designers of land development programs, both to take advantage of the rising market for tourism and recreation and to rationalize agriculture. CDCs have to become adept at land assembly and land banking, and they have to become sensitive to, and be able to deal with, the growing tension between concerns for the environment and economic development.

The possibilities for CDC involvement in this issue – as a mechanism through which poor people can acquire and control land – have always been there, according to Alex Mercure, former executive director of HELP in New Mexico. It is just a matter of being bold enough, he feels, to look the possibilities in the eye and act on what is to be seen.

on rural poverty

Geoffrey Faux

Maine is the poorest state in New England and ranks 37th in the country in terms of per-capita income. Since most of the poorer states are in the South, where the milder climate reduces the cost of living, Mainers are probably worse off than the per capita figure implies. Indeed, the state has all of the problems associated with poverty, including poor housing, ill-health, and joblessness. And since it does not have a major racial problem (although it does have a small number of Indians who have had their share of mistreatment) the problems of poverty are more clearly a class than a racial phenomenon.

But while Maine has been poor and rural for a long time and has been experiencing out-migration for a long time, those who have chosen to remain in Maine have gotten by because land had been cheap and accessible. They could hunt and fish for meat, raise and can fruits and vegetables, and had a cultural environment that allowed them to "make do" with old clothes and old cars.

Since the mid-1950s, the state has been trying to attract industry through tax and financial incentives, an effort that has not worked very well. A few firms have come into the state, but it is not clear that it has been in response to any of the incentives offered by the state. In several instances firms have come in and operated for the duration of the subsidy and left as soon as the subsidy ran out. Recently the largest loan guaranteed by the State Industrial Authority – to a sugar beet factory – went sour and the state is now stuck with the mortgage.

In fact, far from making progress in the industrial sector, Maine is actually falling behind. Between 1967 and 1969, according to the state's own Department of Economic Development, the number of production workers employed in manufacturing industries dropped from 121,100 to 118,020. Perhaps more significant, expenditures for plant modernization and equipment dropped over the same period from $146 million to $106 million.

The pulp and paper and lumber industries which account for one third of the value of manufactured goods in the state have drastically reduced their investments. Indications are that several major firms do not intend to continue significant activity beyond the life of present plant and equipment. Instead, they are moving into recreation and tourism, encouraged by the fact that in recent years vacationers from the cities of the Northeast Corridor have flocked to Maine in increasing numbers to escape congestion, overcrowding, and pollution.

Between 1964 and 1969 spending by tourists in the state almost doubled and has continued to rise since. Tourism is now the number one industry in the state, and prices have skyrocketed as a result. An acre of land that sold for $20 in 1961 cannot be had for less than $200 today. Stories abound of how land speculators and wealthy people from Boston and New York bought land dirt cheap from poor farmers a few years ago and have made fortunes on the increase in value.

The effect of this on the poor is profound. Whereas the poor rural Mainer previously could stay in his community supplementing his income with a garden, by hunting and fishing, and by digging clams, the rise in taxes, rents, and the general cost of living is squeezing him mercilessly. And the land itself, which used to be open to hunting and fishing by Mainers, is now being fenced off for the pleasure of outsiders.

Even his own government, based on the New England town meeting of which the Mainer could be justly proud, is being undermined. Townships are without zoning powers, which they never needed before and about which they lack the sophistication to understand. Where they have regulatory powers, the town selectmen have neither the skill nor the economic power to avoid being dominated by the corporate interests. During a recent survey of Maine local government, a researcher asked a local selectman how he thought the board was going to vote on a particular issue. The selectman replied that he didn't know yet since he hadn't called the Boston headquarters of the town's largest firm.

Gradually the poor rural Mainer is being driven out of his community. The numbers on population movements suggest that Maine's coastal areas are undergoing a shift in population with low-income indigenous Mainers being pushed into the sparsely settled backwoods areas, where opportunities are practically nil. The process is reminiscent of the cycle of uprooting and resettlement that American Indians were subjected to during the 19th century.

This article is taken from the author's statement before the Subcommittee on Migratory Labor, U.S. Senate Committee on Labor and Public Welfare, in Washington, D.C., September 22, 1971.

Such considerations do not seem to feed into the policy-making machinery of planners and strategists. At a time when everyone with money to invest in the state is putting it into land and recreation, the state is still trying to attract industry to Maine, and the attention of most of the regional offices of federal agencies is riveted to "the mobility strategy" and industrial development.

Yet while tourism and recreation are the most important forces to hit the state in a century, and could open up all kinds of opportunities for the underemployed, especially now that recreation in Maine has become an all-year activity, the poor can't get a handle on these opportunities because they are controlled by out-of-staters.

A recent estimate put the total absentee ownership of the state's land area at 80 percent. Fifty-two percent of the land is owned by paper companies. Outsiders own the land and control the benefits. Moreover, wages are kept low, in part by importing thousands of out-of-state college students who compete with the local population for summer jobs. Jobs with any kind of career potential go to people brought in from the outside. Nor is there any training or financing available for local people to take advantage of the business opportunities generated by the recreation and tourism.

To make matters worse, the statewide development of the tourist industry has been random and unplanned. New motels, hot dog stands, service stations, gift shops, and camping grounds pop up every day as corporations and entrepreneurs chase each other all over the Maine coast in an effort to get locational advantage. Overdevelopment has already occurred in some areas and the result has been overcrowding, congestion, and pollution. In addition, this chaotic competition has made it harder for small businessmen to make a profit since overbuilding drives returns down. Only the larger corporations have the staying power to hold onto the land for its long-term benefits.

Furthermore, the capital gains resulting from the steadily rising value of the land, which is Maine's primary resource, are also lost to most of the state's indigenous population. If tapped, such values could generate badly needed funds for public services. But the state relies on an archaic and regressive property tax which ironically favors the large, corporate landowner.

I think it is safe to say that what is happening in Maine is happening elsewhere. In Vermont, for example, a recent study showed that 23 of 31 Vermont plants employing more than 250 people are owned by out-of-staters. Despite the Vermonter's image of himself as a free independent yeoman, he is practically a serf to corporate interests in New York and Boston. The interesting thing is that this pattern of absentee ownership has emerged just in the last 15 years as a result of the trend toward mergers and conglomerates.

In western North Carolina and other places in Appalachia, the lumber and coal companies that have sucked the minerals and timber dry are now cutting

up their holdings into vacation and retirement homes. As in Maine, taxes, rents, and the cost of living have risen in these places and the poor are being further impoverished.

If there has been a broad survey of corporate land ownership in the United States, I am unaware of it. However, in my own limited observations, many of the same corporate names seem to crop up in different parts of the country. Among the major corporate landowners in Maine are Georgia Pacific, the International Paper Company, and St. Regis Paper. In Harlan County, Kentucky, the largest landowners in the county are U.S. Steel, International Paper, and Georgia Pacific. In Jefferson County, Mississippi, the largest landowners are Johns Manville, International Paper, and St. Regis Paper.

The growth of recreation and tourism and the shifting pattern of development to less congested and polluted areas will in the next decade offer a tremendous opportunity for revitalizing rural America. But the rural poor who should stand to gain from these trends are being pushed out of the picture by the corporate sector. Efforts to pour investment subsidies into rural areas without regard for who benefits will make a mockery out of the genuine need of the poor to participate in the development of rural areas. As in urban renewal, rural renewal could become a disaster for the poor.

Where do we go from here? How do we get out of the deadend into which our rural policies have taken us?

The first step is to recognize the nature of the issue. Behind the "problems" of bad housing, poor education, insufficient jobs, lack of capital to start a business, and so on, is a system of unequal distribution of land and resources under a largely absentee ownership. This system has been created by tax policies, subsidy programs, and technical aid efforts paid for by the U.S. taxpayer.

This concentration of power renders helpless not just the poor but all parts of rural society. Even where skillful men of good intent lead a local government, they cannot make the changes needed because rural communities themselves are in bondage to these corporate powers. And it is not in the nature of things for International Paper to tax itself for better housing in Maine, or for Georgia Pacific to concern itself with schools in Harlan County, or for St. Regis to worry about poor black sharecroppers in Jefferson County, Mississippi.

A second step is to get the facts. What information there is concerning ownership of rural America is scattered and incomplete. The federal government which spends millions of dollars on rural socioeconomic research of dubious value has done nothing on the basic question of who owns the land and the resources in rural America. What is needed is a detailed and thorough study of the concentration of ownership in rural America and its relationship to rural poverty.

But even before the completion of such a study, a strategy for rural development can begin to be formulated. Elements in such a strategy might include:

- development of a system of credit, training and technical assistance for poor peoples' rural co-operatives and other self-help enterprises. The proposed Title VII of the Senate version of the Economic Opportunity Act is a start, but it only scratches the surface.

On American History

The history of the giveaway of America's public lands—hundreds of millions of acres over a century and a half—constitutes one of the longest ongoing scandals in the annals of modern man. Fraud, chicanery, corruption and theft there were aplenty, but more scandalous was the lack of concern for the social consequences of uneven land distribution. Congress at times did enact such foresighted measures as the Homestead Act of 1862, but far more often it authorized the wholesale disposal of public lands to speculators rather than to settlers. And what Congress didn't surrender to the land hoarders, the state legislatures, the Land Office and the Interior Department usually did.

In the early nineteenth century, the typical speculator's gambit was to form a "company" which would bid for massive grants from Congress or the state legislatures, generally on the pretext of promoting colonization. Once a grant was obtained—and it never hurt to be generous with bribes—the land would be divided and resold to settlers, or more likely, to other speculators. The enormous Yazoo land frauds—in which 30 million acres, consisting of nearly the entirety of the present states of Alabama and Mississippi, were sold by the Georgia legislature for less than two cents an acre, and then resold in the form of scrip to thousands of gullible investors—was perhaps the most famous of these profit-making schemes. Huge fortunes were made in such swindles, often by some of the most respected names in government. The social consequences were not limited to the quick enrichment of a fortunate few. The issuance of vast tracts of land to speculators also had the effect of driving up land prices, thereby impeding settlement by poor Americans. And, since grants were not always completely broken up, they had the additional effect of implanting in the new territories of the South and West the pattern of large landholdings that persists to this day.

Peter Barnes

Excerpted from "The Great American Land Grab," *The New Republic*, June 5, 1971.

- reform of farm subsidy programs which favor corporate wealth over the small farmer.
- extension of minimum wage laws to farm workers to alleviate the exploitation of human beings that is the backbone of large scale corporate farming in many parts of the country.
- a shift in the priorities of federally supported agricultural research from a concentration on large-scale technology to technology suitable for smaller farms. It is unlikely that the shift to large-scale farming would have happened in many crops had not the research sponsored by the Department of Agriculture been so oriented to large-scale farming.
- reform of tax policies which provide incentives for the wealthy to speculate in land. Also required is a shift away from the property tax to a more progressive income tax as a basic source of local government income.
- revision of rural development legislation such as that which proposes a Rural Development Credit System (S 2223) to assure that it would become a vehicle for self-development.
- development of a land bank program whereby the federal government would finance local purchase of land for locally owned development projects. Like the Urban Renewal Program, the Land Bank would provide "write-downs" for local projects. Unlike the Urban Renewal Program, development projects would be sponsored and owned by publicly owned local or regional development corporations responsible to the communities involved. Through these development corporations, migrant workers could be given an opportunity to settle and obtain land ownership.
- exploration of the antitrust aspects of the concentration of land ownership looking towards the possibilities of comprehensive land reform through both legal and legislative action.
- reform of abuses of acreage limitations under the Federal Reclamation Act.

It is not easy to conclude that an important part of the solution to rural poverty is in the redistribution of land. Such a solution seems to lie so far into the future, and each day that goes by is another day of suffering for migrants and other rural poor people. But after seven years of trying to cure poverty with band-aids, the federal government cannot continue to delude itself as to the real nature of the disease.

Ironically, the United States has been preaching the virtues of land reform to less-developed countries since the end of World War II. The forces that resist land reform in Latin America and Asia are similar to the forces that have prevented it from becoming a subject of serious discussion in this country. But for better or worse, land reform is as much a key to the elimination of rural poverty in America as it is any where else on the globe.

this and other myths

The system of taxing property in this country is notoriously regressive. All units of land get taxed at the same rate, no matter how large the holding or how high the owner's income level, which means the burden of the tax is made to fall more heavily on the man with the smaller holdings and the smaller income. To make matters worse, the large corporate landholders have regularly abused even this system, favored by it as they are. As a recent study by Ralph Nader amply documents, corporations have systematically been allowed to flout or evade the assessment process. They manage through influence peddling of one sort or another to keep their property underassessed and their taxes low.

The consequences of this situation are manifold. For the public schools—which depend on property taxes for financing—it means shortchanging children, forcing them to spend their time in settings that are dismal, makeshift and dehumanizing. But equally distressing, according to advocates of land reform, is that the maladministration of the property tax provides corporate interests with the very margin of profit that has encouraged development of dubious, if any, social value.

In other words, land reform advocates argue, the property tax as it is now constituted and administered gives corporations the subsidy they need to mindlessly exploit land, while it denies the broader community the instrument it needs, given the institution of private property, to insure that humane, rather than economic, values determine priorities.

The land reformers want to turn that situation around and make the property tax an instrument both for equalizing social costs and for insuring a balanced development that is defined by the whole community and not simply by the corporations that dominate the community's economy.

They would support a progressive system; that is, a system where taxes increased as a function of the amount of land owned and its value; and they would provide for differentials in the tax rate so that government could encourage one kind of development and discourage another. Just as churches have been made tax-exempt in their land holdings, presumably to encourage the spread of organized religion and a particular ethic, land development by community-based organizations could be encouraged by extending them the same tax exemptions.

Of course, to build the constituency for this position so that it has political currency is not an easy task. The taxing power is also the power to confiscate and the idea of confiscating a corporation's private property because that corporation has violated the community's laws—which is where the image goes if you take it far enough—flies in the face of that which every American is coached to show undeviating respect. Rather, Americans have been willing to acquiesce and believe corporations were socially responsible. It is work such as Ralph Nader describes in the following testimony that must serve as a starting point for a general reassessment of this and other myths. *Arthur Tobier*

Statement by Ralph Nader before the Select Committee on Equal Educational Opportunity, U.S. Senate, Washington, D.C. September 30, 1971.

. . . Little needs to be said here about poverty in Appalachia; but much should be said about Appalachia's wealth. Appalachia, *Dun's Review* has said, suffers from an "embarrassment of riches." It is one of the richest mineral regions in the world; in 1965 Kentucky alone still held about 27.8 of an original 35 billion recoverable tons of coal. Three hundred ninety-six million dollars worth of coal was mined out of Kentucky in 1968. There is so much oil and coal and timber and gas in some parts of Kentucky that 30 attorneys have worked full-time in one Kentucky town of 6,000, just separating out the mineral rights to individual parcels.

But the people of Kentucky do not share in this wealth. It was bought up by outside interests long ago for from fifty cents to five dollars an acre. The list of owners now includes such names as U.S. Steel, Bethlehem Steel, International Harvester, Ford Motor, and National Steel. Mechanization, and especially strip mining, have meant that fewer and fewer Kentuckians can even earn wages mining the land. And since the coal owners virtually escape paying property taxes, the imposed impoverishment of the coal regions is just about complete. . . . the underassessment of coal begins with self-assessment. Local assessors have no idea who owns what and how much it is worth. The owners of the coal bearing lands simply tell their version of what they own, where, and its value. And . . . the ill-equipt, frequently untrained local assessors have no way to check the owner's statement. The "Tax Commissioner" of Knott County, Tennessee, described the process thus to the *St. Louis Post Dispatch:*

> The coal companies pretty much set their own assessments . . . We have no system for finding out

> what they own. Like they may tell us they own 50 acres at a certain place, when actually they own 500 acres . . . If a company says an area is barren or mined out, we have to accept it.

Or as one local Tax Commissioner told the *Appalachian Lookout*, "People (meaning "coal companies") just paid what they thought they should. Still do, mostly."

This system is not exactly air tight. In fact, a good deal of rich coal property–one authority puts the figure at "tens of thousands of acres"–never gets onto the tax rolls at all. A fact-finding team appointed by the Pike County, Kentucky school board in 1967 found that forty to sixty percent of the county's land was either unlisted or underassessed. That year the Pike County schools had a deficit of almost $113,000 and 45.3% of the people were below the poverty level. Yet at the same time $65 million worth of coal was being hauled out of the county.

While the federal government has spent millions to wage "war" on poverty in Appalachia, an agency of the government has helped exploit Kentucky's failure to even get its coal property onto the property tax rolls. According to the Kentucky lawyer-historian, Harry Caudill, author of *Night Comes to the Cumberlands*, the TVA a few years ago took title to the land of a defaulting coal supplier. In such cases, Mr. Caudill says, the law requires the TVA to pay taxes at the same rate that was paid during the two years before its acquisition. But since, as it turned out, this land had never been recorded or assessed, the former tax rate had been zero. So now, we are told, the TVA owns and pays no taxes on 8,800 acres of farm and coal land in Bell County, Kentucky. And meanwhile, Bell County is able to pay only 5.7% of its public school costs–a whopping $34 per pupil per year.

But even when Kentucky coal land does get onto the tax rolls, the owners, some of the largest and most profitable corporations in the nation, pay hardly a pittance. "Thousands of acres of coal land worth $200 to $300 an acre get on the assessment books at $2.00 an acre," the *Louisville Courier-Journal* said in 1965. For example, National Steel Co. currently is developing a huge new mining complex on 14,200 acres of coal land in Knott County. It is building a large, ultra-modern tipple and a preparation plant that is expected to produce 1,250,000 tons of first-quality coal annually. A new railroad is being built to get at this coal. The owner of this tract of coal land, Elkhorn Coal Corporation, has paid its shareholders a staggering 35% of its gross receipts in dividends. Yet Elkhorn Coal Corporation has been paying Knott County taxes of less than twenty-two cents per acre on land so rich as to warrant the new railroad and preparation plant.

A Biblical Precedent

In biblical times, the Hebrews had a custom called Jubilee. Every fiftieth year was a year of celebration, during which slaves were manumitted, alienated lands restored, and debts forgiven. In a limited way, the society's air was cleansed so that a new era could begin, free of the burdens of the previous period. Although the American society is less than two centuries old, its history has so burdened it with inequities that the Jeffersonian dream which was its raison d'etre has not only been stifled, it stands in danger of total collapse. There would seem to be no better way to celebrate our forthcoming bicentennial festivities in 1976 than to declare a form of Jubilee and sweep away as much of the deadwood of the past as we possibly can. Let the vast accumulations of wealth be leveled (the rich will still have a headstart because of their superior education, health, experience, etc.); let the large landholdings revert to the state, to be homesteaded on long-term leases by those so inclined; let the large holdings of corporate shares be distributed to the poor, so that we can discover what a people's capitalism might really be like; let the tax laws and the criminal codes, whose complexity too often serves only to obfuscate rather than to clarify, be written afresh to state unambiguously what they are intended to state.

Excerpted from "The Twilight of Capitalism," by Robert S. Browne, Business & Society Review, Spring 1972.

Or consider Harlan County, where U.S. Steel has strip-mined the Big Black Mountain, the tallest in the state, into a "colossal wreck." In 1966 more than thirty million dollars worth of coal were mined out of Harlan County, and U.S. Steel's subsidiary, U.S. Coal and Coke, was the county's largest single producer. U.S. Steel paid taxes of only $34,500 to the county on two producing mines valued–probably by itself–at $9,300,000. In Arizona, U.S. Steel would have paid almost ten times as much on the same operation. With that much extra revenue from U.S. Steel alone, Harlan County could have provided close to twice the $41 per pupil it could afford in 1968. Still not much. But at least a start.

In Kentucky, property taxes levied are not always property taxes paid. Several years ago a reporter from the Hazard, Kentucky *Herald*, found that large mining companies owed Perry County over $75,000 in back taxes. The New York Mining Company alone owed over $4,200. Apparently the county was making no effort to collect.

And throughout Appalachia, the story is the same. The people are poor, the schools are poor, but the owners of coal land enjoy a property tax field day. Tennessee's five most prolific coal counties, which produced 6 million tons of coal in 1970, are losing several hundred thousand dollars per year in property tax revenues, according to a study done at Vanderbilt University last summer. Coal land owners control over one-third of the total land area of the five counties but they provide less than four percent of the property tax revenues. One owner collects royalties of $4,500 per week on land assessed at $20-25 an acre—the same value the county assigns to unused woodland and one quarter of what it assesses farms!

The pattern continues across the county. The largest and wealthiest corporations flout or evade the property tax laws, victimizing the public schools. A report released recently by a team of law students led by Maine lawyer, Mr. Richard Spencer, disclosed that Maine has been losing over one million dollars annually in property tax revenues because its timberlands are underassessed. According to the report, the State Property Tax Division does not even have a trained forester to check the work of the *private* appraisal firm, James W. Sewall, Inc., that assesses the timber land under contract. The president of that appraisal company, which also performs substantial private work for the timber companies, is Mr. Joseph Sewall, Chairman of the Appropriations Committee in the Maine State Legislature.

In Augusta, Georgia, a so-called "Committee of 100" of "prominent citizens" touched off an epidemic of underassessments some ten years ago by offering illegal tax concessions to firms as an inducement to locate there. The concessions were supposed to be temporary and available only to new industries; but nobody enforced these restrictions and in time the prominent "100" had filched, according to the Richmond County Property Owner's Association, $300 million worth of property from the assessment rolls. Meanwhile many of the county's schools are on double sessions and there is a shortage of 147 classrooms, not including 119 "nonstandard" ones.

School districts in Texas have fared little better. In the Permian Basin the underassessment of oil and gas properties belonging to some of the world's largest producers has cost one school district alone at least one million dollars a year for the last seven years. A 1970 study of oil and gas properties by Texas University Law students in Ector County, Texas, found that producing properties were undervalued by about 56%, and that non-producing property which Texaco had leased for $460,500 was not on the assessment rolls at all. Homes, on the other hand, were assessed at very close to actual market value. A private appraisal firm, Pritchard and Abbot, did the assessing for the taxing districts. And a survey of timber land in 6 counties and 4 school districts in East Texas by the same group of law students disclosed a pattern of underassessment which, if projected over the entire 37 county East Texas region, signified a loss of approximately $38.4 million in local revenues each year. In the Newton Independent School District alone, six companies, including Champion-U.S. Plywood and the Kirby Corporation, underpaid by more than $133,000 in 1969. . . .

a land bank for the south

Randolph Blackwell

The history of Southern black people has been an account of their systematic alienation from the lands upon which they have worked as farmers and agricultural workers. The net effect of the public programs of the U.S. Department of Agriculture has been to dispossess all small farmers, and particularly black farmers. The dispossession of black farmers has been roughly four times the rate that has occurred among white farmers, this being the result of unequal access to agricultural credit and to production education and technology—plus the illegal denial to black people, in many communities, of the opportunity to buy or lease land.

The further obliteration of opportunities for black families to make their livings from agriculture has attended the mechanization of farms and the elimination of cotton as a main enterprise throughout the old South. This process has removed the economic base in Southern rural communities for literally millions of young and older black people, leaving them no other practical alternative except to flee into the slums and ghettos of the cities—North and South.

The Food and Agriculture Act of 1965 was a crowning act of travesty in accelerating this process of evicting black people [illegible] their home communities. By authorizing the sale [illegible] cotton allotments separate from the land, and making no provisions for financing the readjustments of poor people—previously employed in such farm enterprises—the act provided no alternative opportunities for the poor either as small farmers or employees in other rural enterprises.

One principal aim of the so-called Land Bank is to commence an essential rebuilding of the economic base for rural black people, reestablishing access to productive land for their farming and non-farming enterprise needs.

A collateral aim is to give black people and their cooperative associations, through ownership, the basic asset of land, which they then can use as essential security for the financing of home building and rural business developments, including their development of successful and modern farms.

All of this, again, is in the context of offering new opportunities for black people—and other poor and disinherited people—to attain a desirable stability in residence and work, so they will not be compelled to migrate into the nation's large cities.

On American Incentives

Because the really good lands in the South nearly always lie within the great aggregations that predate the end of reconstruction, the land-owning Negro farmer and his red-neck competitor generally grub away on thinner soil at substantially smaller returns per acre. And in the slack waters of the almost endless swamps there must be literally unnumbered (as recent Census Bureau disclosures suggest) black illiterates who have yet to learn that the U.S. government seeks to lift them out of poverty. An amply financed effort to redistribute agricultural land coupled with a drive to organize farm cooperatives would offer the impoverished rural southerner more hope for self-sufficiency than he has known since the southern settlements began. Through cooperative corporations, feed, seed, fertilizer, tools, machinery, fuel and food could be bought at reduced prices, while assuring better prices for their tobacco, cotton, livestock, eggs and poultry. Japan's postwar resurgence and Scandinavia's long stability owe much to government-backed cooperative undertakings by producers of food and fibers. Such time-tested devices might work equally well in our long-tortured southland if a strong federal administration were to boldly promote them in the face of such primitives as Sen. James O. Eastland (D-Miss.) and Governor Wallace of Alabama.

The present "farm programs" do little or nothing for tenants and day laborers. A multimillion-dollar grant to Delta Pine and Land Co. as an incentive to "soil bank" its land and refrain from growing cotton seeps up to shareholders rather than down to field hands. To paraphrase Lincoln, cooperatives offer the best prospect of allowing the man who grows the corn to eat the corn. In a country that shamelessly pumps billions each year through bloated corporate treasuries, it is remarkable that at least a few hundred millions have not been hazarded on a national program to draw farmers into the kind of joint effort that could bring them prosperity on their own lands while halting the rapid drift to huge corporate farms on the one hand and an ever-accelerating rush to the cities on the other. *Harry M. Caudill*

It is deeply significant, we feel, that church organizations might transfer lands that have come into their possession over the years for this high civic purpose—of capitalizing a regional Land Bank—thereby directly serving the needs of rural poor people, and also setting a precedent for other thoughtful organizations and individuals to follow. Such constructive moves might again help to develop public land policies and legislation that may re-open opportunities for needy rural people.

Good Precedents and Experience in U.S. Land History

The United States was established in the first place as a mecca of new opportunities for oppressed people of Europe, despite the fact that it also became a slave colony for black people. The history is therefore mixed, but it does contain a golden thread of good land policies and precedents.

The Homestead Act of 1862, as amended, is a unit of such good policies and precedents. It was based on the central concept that a popular access to basic land resources, subject to constructive rules, was good for the community and nation.

The provisions of this act are fairly well known, but it is well to review them for the fresh insights they may provide about their value as precedents. The principal concepts and provisions of the act were these:

1. That occupancy of lands, in residence, might earn the opportunity to own the lands.
2. That care and improvements of the land, including clearing, cultivation, productive use, building a home and other buildings, etc., could also help to "earn" the right to ownership.
3. That a homesteader who earnestly desired ownership of land, shown by his efforts to reside on it, improve and use it, was also entitled to other encouragements, such as low interest loans at reasonable terms of repayment.

Over 200 million acres of U.S. public lands were transferred to homesteaders during the period 1862-1923—during the development of the northern and western regions of the United States—under public land land policies that clearly disseminated basic wealth in a constructive way.

The Reclamation Act of 1902, as amended, was an adaptation of the concepts of the Homestead Law to fit desert land conditions. In this case, substantial improvements were needed for arid lands to be productively useful to settlers—or homesteaders—mainly in the construction of irrigation and drainage works to be used by whole communities. The act provided for the public financing of such generally needed improvements, and, in effect, for the establishment of co-operatives in local communities to handle the necessary developments and land transactions. It also provided for adjustments in the price of land that would be actually charged to settlers.

This is a deeply significant act, from the standpoint of its precedents, since it has involved the provision of millions of dollars of public subsidy and investment for creating a sound basis for settlers to own their land, and for rural communities to develop and be prosperous.

But in fact, the subsidy provisions of this act have helped California and Arizona cotton production to achieve lower costs while effectively wiping out cotton production in many Southern communities.

The following are some of the salient provisions of the Reclamation Act:

1. It authorized Congress to provide the funds and technical assistance for the construction of major irrigation, drainage and land improvement projects when these were of a scale beyond the practical handling by individuals or small local groups.

2. It provided for the setting up of legally authorized Reclamation Districts and Associations that could become competent contracting agencies to receive pos-

On American History

In November 1862, Grant made John Eaton superintendent of Negro Affairs and gave him wide powers in smoothing the transition of the refugees. The situation at the time was desperate. "The scenes," Eaton said, "were appalling: the refugees were crowded together, sickly, disheartened, dying on the streets, not a family of them all either well sheltered, clad, or fed; no physicians, no medicines, no hospitals; many of the persons who had been charged with feeding them either sick or dead." Many of the refugees, moreover, were disheartened by the cruelties of the Union soldiers and Northern civilians.

Moving with dispatch, Eaton organized a staff of army officers and established contraband camps for the refugees. The able-bodied men were put to work harvesting crops on abandoned plantations. The old, the infirm, and the young were settled on Home Camps. In some cases abandoned plantations were leased to men and extensive efforts were made to organize communal societies. At Davis Bend, Mississippi, the abandoned plantations of Jefferson Davis were divided into districts and a semi-autonomous black government was established. Each district had a judge and a sheriff, and all of the officers of the courts were black. Under the provisions establishing the settlement, white speculators were banned. By the winter of 1863, some 600 freedmen were producing crops in the area.

Similar experiments were made on the Sea Islands, where General Saxton advocated land and self-determination for the black refugees. This experiment was given impetus by William T. Sherman's epochal Special Field Order Number 15 (January 16, 1865), which set aside for black settlement "The islands from Charleston south, the abandoned rice fields along the rivers for 30 miles back from the seas and the country bordering the St. Johns River, Fla." Under the provisions of this order, the head of each family was to be given "a plot of not more than 40 acres of tillable ground . . . in the possession of which land the military authorities will afford them protection until such time as they can protect themselves, or until Congress shall regulate their title." The order also provided that "on the islands and in the settlements hereafter to be established, no white persons whatever, unless military officers and soldiers detailed for duty, will be permitted to reside; and the sole and exclusive management of affairs will be left to the free people themselves, subject only to the United States military authority and the acts of Congress." By 1865, Saxton had settled some 40,000 freedmen on this land.

To the surprise of almost no one, these communal experiments were later abandoned in favor of "free enterprise." Pursuant to the directions of the Lincoln Administration, the captured and abandoned plantations were later leased to private entrepreneurs who employed the refugees at scandalously low wages and abused them almost as much as the slavemasters.

A fascinating "if" develops at this point. What would have happened if the government had pursued its original policy of land grants and communal control? W.E.B. Du Bois and Vernon Wharton, among others, have suggested that such a policy would have altered the face of America. Wharton said: "The significance of this one-year experiment [at Davis Bend] lies in what it shows might have developed from Eaton's early system of camps if the 'radicals' in Congress had allowed their radicalism to extend into the field of economics instead of confining it to that of politics. A wiser and more benevolent government might well have seen in Davis Bend the suggestion of a long-time program for making the Negro a self-reliant, prosperous, and enterprising element of the population. It would have cost a great deal of money for the purchase of lands, or would have involved an attack on the sacredness of property rights in their confiscation, but it would certainly have greatly altered the future of the South, and it might have made of her a much happier and more prosperous section."

Lerone Bennett, Jr.

Excerpted from "The Making of Black America," Ebony Magazine, February 1972.

session of the lands so improved, and to administer its sale to qualified settlers; and further, to handle adjustments in costs and values of land so settlers could afford to buy them.

3. It provided for *interest free* public credit, for a *40 year repayment period*, as the basic terms for the public funds that were provided to improve and make such lands available to settlers.

4. It also provided for reappraisals of (a) the whole project, and (b) individual parcels of land, to insure that the price of land offered to individual settlers was within their capability to pay.

5. It then established conditions in residence and improvements, similar to those of the Homestead Act, as qualifying conditions for settlers.

6. It included an Acreage Limitation provision, as later amended, to prohibit—at least in the first cycle of ownerships—undue speculation in the land for profit instead of for home ownership and use.

These provisions, also, we find to be deeply relevant to the design of a truly competent Southern Land Bank, based initially upon "capitalization" with church properties.

The land programs of the Resettlement Administration and of the Farm Security Administration took these basic precedents of the Homestead Act and the Reclamation Act and modernized them to a degree to serve the pressing needs of rural poor people during the Depression years.

The main features of these programs that have great value for future use are:

1. Industrious and honest "settlers" and borrowers of funds need not have an "equity" of money to invest for making farming or other rural enterprises successful; but rather (a) a good plan of operation, (b) assured access to other essential production resources, through low cost credit, (c) assured access to modern technical assistance, and (d) a reasonable price for purchase of the land. If these conditions can be provided, repayment of borrowed money is possible, and land can be paid for within 40 years.

2. Sound and modern land programs can be developed in most communities through the combined use of (a) federal and/or state (or other major) powers and resources, plus (b) the services of a local non-profit cooperative or association. This became the basis for provision of locally adapted land programs and land credit. Resettlement projects, co-operative associations, credit associations, etc. have been successfully used—even in buying whole Southern plantations and developing them for successful ownership and operation by previous sharecroppers and farm hands.

The precedents of such diversified projects and programs, including the operations of the Bankhead Jones Farm Tenant Purchase Act, are available for use by an Atlanta-based regional Land Bank.

The Land Purchase and Leasing Association Prototype

A number of personnel of the Farmers Home Administration as of 1961-66 had had personal experience in the development and operations of one or more of the Depression Era programs mentioned above. They participated in the pre-legislative negotiations for the Economic Opportunity Act of 1964, in which Title III was designed to "combat poverty in rural areas." This title, as finally approved, delegated its loan and grant authority to the Farmers Home Administration, and that agency administered it.

It is noteworthy that the original Section 303 of this act provided for the authorization and operation of Family Farm Corporations, which have been referred to as Land Purchase and Leasing Associations—in short, land co-operatives, to handle basic transactions in providing lands at reasonable costs and terms for poor people.

The central concepts of this proposed legislation are basic to the concepts that should be considered in establishing a regional Land Bank, capitalized with church and other donated lands at beginning, but made legally capable of acquiring lands through future purchase, transfer, or gift, and making these lands available on sound terms to needy black people.

These are the vital provisions:

1. That the lands be acquired through gift, transfer or purchase.

2. That the Land Bank have authority and resources for improving, sub-dividing, maintaining, selling, leasing and otherwise administering such lands.

3. That it have authority to utilize such lands as collateral in borrowing money.

4. That it develop sound appraisal procedures and be authorized to sell and/or lease its properties at appraised values that are in accordance with the ability of the recipient family or organization to pay.

5. That it be authorized to cover any losses that result from such sound and civically beneficial transactions from (a) profits on other transactions, (b) grants from public sources, or (c) grants from private non-profit sources, such as foundations.

6. That it also be authorized and equipped to act as an agency to assist recipients of lands in obtaining the entire range of public financing and technical assistance for the purchase, improvement and operations of rural farm and non-farm properties, either by subsidiary associations or individuals.

The "Nest Egg" Principle—Using Church Lands

Land is basically a more valuable property than money, since there is a fixed and limited supply of it, and its value enhances with population growth—particularly when it is located in the path of urbanization. Further, it does not burn up, or blow away, and it is not subject to simple forms of theft. It is therefore the ideal collateral to use in the procurements of additional resources or credits.

An agency that deals in land may parlay its wealth and force through:

1. Use of its land as security for borrowing money to finance improvements, or the acquisition of additional land.
2. Use of its civic-political strength for procuring public loans, services, and grants that would be otherwise difficult to get.
3. Exerting legislative influence in behalf of its owners and beneficiaries.

A Land Bank should be able to conduct fairly large dimension programs, utilizing relatively modest "capitalization." It would do this by "turning over" its investment through refinancing which it could help its member groups obtain as well.

The authorities and funds of the Farmers Home Administration and the Farm Credit Administration illustrate the kinds of resources that might be used. For example:

> Section 302 of the Farmers Home Administration Act of 1961, as amended, provided for the granting of farm ownership loans at 5% interest for 40 years (the public makes up the differences in interest cost when the current price of money is 8%). A well administered Land Bank may assist the purchasers of its land in obtaining such loans to refinance its own contracts, thereby putting its own resources back into circulation for use by others.
>
> Section 304 of the same act authorizes soil and water improvement loans, at 5% and for 40 years, for improvement of properties. The Land Bank may also assist in procuring such loans to enhance the value of properties in its universe of service.
>
> Section 306 of the same act authorizes similar loans on the same terms to associations. It would be hoped that the civic-legislative strength of the Land Bank and its supporting organizations would be adequate to enable use of such financing services for its own subsidiary associations.

Legal Aspects of the Design of This Land Bank

This special Land Bank should be incorporated as a non-profit corporation under state laws. Its board might have members who represent the basic organizations of interest. Its articles would set forth powers and authorities of kinds indicated above.

The future establishment of subsidiary non-profit associations in specific communities or areas, where significant land interests and programs are developed, should be foreseen. These could be independent associations, separately incorporated, or they could be administrative sub-units of the regional corporation. The Farm Credit Administration pattern, which utilizes regional and local associations, should be examined.

Conceivably, the community or district associations

could "own" the regional entity, but this might prove to be restrictive. The prerogative for the regional Land Bank to grow into a major land policy force should be foreseen and developed. Guards against bureaucracy should be built into this entity.

Assurance should be provided, if possible, for viability from the beginning. This objective could be supported by the provision of a grant of operating funds, even though modest, along with initial land grants from churches and other sources, for use pending the time that a variety of resources may be acquired and mobilized by the Land Bank for its programs, using the mother wealth of land as the leverage.

The proposed Land Bank program is potentially too valuable for the rebuilding of Southern communities to be allowed a puny childhood.

Randolph Blackwell is executive director of Southern Rural Action in Atlanta.

town CDC

John McClaughry

The tiny town of St. George, Vermont, may be pioneering a wholly new approach to land use control and development—an approach which in many ways resembles that of a private community development corporation, but with municipal powers.

St. George is a town of 500 people and 2,200 acres, lying at the furthest southwestern edge of the Burlington, Vermont, metropolitan area. St. George lies only four miles off Interstate 89 at the intersection of two main roads. The area has grown rapidly in the last decade, and urban sprawl is creeping outward.

Recognizing the disaster that has engulfed so many small villages with the advance of suburban sprawl, the citizens took an extraordinary step: they voted to authorize the town selectmen (council) to purchase the 48 acres of prime land lying at the intersection of the two main roads. This piece of land, a portion of a dairy farm, cost the town $48,000, an amount equal to the entire annual town budget. The money was raised from a nearby bank on a short-term note (not a tax-exempt bond sale) secured by the property and the town's taxing power.

Having acquired what in effect is the only substantial parcel of commercially developable land in the town, the town selectmen then used the Vermont zoning statutes to zone all the rest of the town as residential only. The town thus became the sole owner of the only commercial property, assuring that any future development would be under the complete control of the town planning commission.

Then the town fathers took another extraordinary step. They initiated an architectural contest to plan an esthetically satisfying but functional town center, complete with stores, municipal building, and play areas, all in harmony with the existing landscape features. Twelve architectural firms submitted plans, including plats and conceptual drawings. The winner, Robert Burley of Waitsfield, Vermont, envisioned a three-sided mall with stores facing inward and parking at the rear along the road corridors. The fourth side of the mall incorporates natural rock outcroppings and forest which now form the distinctive landscape feature of the property.

Having developed an approved town center plan for the development of the property, the town is prepared to deal with any private developer who feels that the economic growth of the larger area now makes development of St. George village a profitable proposition. The town has not yet decided exactly how to respond to a private builder's initiative when it comes. One plan currently under discussion is for the town to trade its 48-acre parcel for other privately owned land elsewhere in the town, provided, of course, that the developer conforms to the approved town center design specifications. Other possibilities include having the town itself act as developer, selling the completed town center to a real estate investment trust.

Eventually, the town intends to zone a 450-acre tract adjacent to the proposed town center as a planned unit development.

Of obvious interest to CDCs is the role of the town in taking control of the land resources within its boundaries. In Vermont, the town (township) does not generally possess eminent domain or municipal bonding powers, which require special legislative approval or passage of a home rule charter. The town does, however, possess planning and zoning powers, and can in effect pledge its credit to secure short-term (possibly renewable) financing. Since the town credit depends on its property tax base, it has, within limits, a strong credit rating from local lenders.

If the town should choose to develop the property itself, contracting the actual design, construction, and property management to private firms, it would in effect be a CDC with 100 percent resident participation. Rising land and commercial values over the next decade could well result in retirement of the debt and a substantial profit flow to the town, especially if the resulting property is sold to a real estate trust. In that case, the town would receive property taxes, and the real estate depreciation would offer a tax shelter for which wealthy trust investors would be willing to pay well.

Alternatively, the town could form a CDC composed solely of its own residents and taxpayers, which would be the profit-making entity and produce a cash dividend to shareholders. In this case, cooperation between the public body and the private CDC would be a unique arrangement, combining the former's municipal powers with the latter's voluntary participation and profit motivation.

national coalition for land

In December 1971, a national coalition of organizations and individuals was formed to catalyze a new American movement for land reform. It is based on the recognition that the increasing concentration of ownership of rural land is a major obstacle in the drive to alleviate rural poverty, to ease urban overcrowding, to protect the natural environment and to build a just and equitable democracy.

The following are excerpts from a recent statement by the organization:

"Land reform is needed in America. Despite laws to the contrary, an increasing percentage of the most productive land in America belongs to absentee landlords and giant corporations, even in cases where the law forbids it. This ownership pattern has led to the emergence in many parts of rural America of what can only be described as a new form of feudalism, marked by vast disparities in income and power and a steady flood of poor people to urban ghettos and barrios.

Land reform is also needed in order to preserve the land itself. Many of the same forces that drive small farmers off the land bring in subdivisions and second home developments in their place. At the same time, the large corporations that increasingly dominate agriculture show too little respect for the eco-system or the wholesomeness of the food we eat–spray now and pay later seems to be their motto. Land reform should preserve more rural land for agricultural use and promote better husbanding of the land by small farmers. It should make it possible for men to earn a living from woodland without violating its natural ecology, and for all Americans to utilize wilderness lands for recreation without the over-commercialization that mocks the quest for rest and tranquility.

We don't have one simple solution to the problem of concentration of land ownership and abuse of land. We think that different areas have different problems and probably require different solutions. In the West we might start by living up to the intent and letter of the 1902 Reclamation Act and breaking up large corporate landholdings. In Mississippi the answer may lie in establishing a land bank to purchase and redistribute land to landless sharecroppers and other rural people. In Appalachia it might be necessary to place the mineral rights owned by large coal and lumber companies in a public trust. In Maine the essential step might be to bring the scenic coast and inland lakes under local public control to preserve their beauty and allow residents to garner the economic benefits of recreation.

We believe there is a common theme to the resolution of rural land abuse problems which is that the land is a finite and precious resource which ultimately belongs to all of the people.

A number of efforts have been made over the past few years to draw attention to corporate abuse of land and power in rural America: Ralph Nader's investigations, the hearings by the Senate Subcommittee on Migratory Labor and other governmental bodies, the report of the President's Commission on Rural Poverty in 1967, and many others. These groups have unfolded a dreadful tale of what has happened to our land of independent farmers and rural people.

Now the problem is: what do we do about it? The National Coalition for Land Reform is an attempt to create an agenda for change in rural America, and to mobilize the energies necessary to bring those changes about.

The NCLR is a loosely structured coalition of citizens and organizations from all sections of the country who recognize the urgent need for land reform. It includes small farmers, farm workers, urban labor, environmentalists, economists, lawyers, clergymen, journalists, housewives and students, many of whom approach the issue of land reform from different vantage points. It has been chartered as a non-profit corporation in California, currently has offices on the East and West coasts, and hopes to open others in the South and Midwest. Funding thus far has come from private contributions by members.

We recognize that what we are proposing is a big order. And we know that American history is peopled with brave and far-sighted men who advocated many of these reforms and failed. But we think there is a potential constituency for land reform that was not there before. Not only the rural poor and the small farmer, but the city dweller and suburbanite are coming to recognize that we can no longer permit land to be abused and monopolized without grave consequences for the economic, political, social and environmental health of the nation."

The National Coalition for Land Reform invites all interested people and groups to join in designing, supporting and implementing alternatives for the use and community control of our land.

For further information write the National Coalition for Land Reform at: *126 Hyde Street, Suite 101, San Francisco, Calif. 94102; or 1878 Massachusetts Ave., Cambridge, Mass. 02140.*

testifying

The following are excerpted from testimony given during recent hearings in California of the Senate Subcommittee on Migratory Labor.

Robert Gnaizda, Public Advocates, Inc., a nonprofit law firm, San Francisco:

Over the last decade the U.S. Government, through its agricultural subsidies not to produce crops, has provided growers such as United Fruit with almost thirty billion dollars ($26,859,000,000). And individual growers, such as J.G. Boswell of Corcoran, California, have received more than twenty million over the last decade not to produce anything.

The result has been to raise the unemployment rate of farm workers to an estimated 25 percent, to abolish small farmers at a rate of more than one hundred thousand a year, and to raise the cost of basic staples necessary to the survival of the unemployed farm worker and small farmer. All this has been done in order to ensure that fertile land remains barren.

At the same time, we have experimented with almost one billion dollars ($956,000,000) to counteract this non-production program through expensive reclamation projects that insure that barren land becomes fertile in order to ensure that fertile land remains barren.

It is a rare individual that would have the temerity to suggest that he could devise a program that is more counterproductive or harmful than the above. Although I am not personally capable of devising a program more absurd, the United States Labor Department does, in fact, operate and has operated for more than three decades a program that is more counter-productive. It is commonly known as the Farm Labor Service. It is 100 percent federally-funded, at a cost of almost a quarter of a billion dollars over the last decade.

The ostensible purpose of the Farm Labor Service is to provide the "best jobs" available for farm workers in accordance with applicable health and safety codes. In fact, its grower-controlled and oriented staff provides the best workers at the lowest wages to the worst growers, those growers who, due to artificially low wage rates, are unable to compete in the open marketplace for labor.

The result of this grower capture of a migrant oriented program is to make the federal bureaucracy an unwitting ally of those growers who are most likely to encourage the perpetuation of the migrant's cycle of poverty. The cost to the migrant is an estimated loss of at least one hundred million dollars per year in wages.

***William H. Friedland*, professor of community studies, University of California (Santa Cruz):**

In a word, government policy has contributed to agglomeration and concentration, and thereby contributed to a weakened rural social structure in the United States.

Let us consider how government policies have produced these consequences. The bulk of research, current and past, is devoted to studies of technology—what might be called the "hard" scientific approach. Relatively little has been spent or is being spent on the so-called "softer" side—the human and social elements of agricultural and rural life and, perhaps even more important, the consequences of technological innovation.

In the University of California system, which I believe to be typical of the agricultural research establishment in the United States, in 1971, of a budget of over $21 million for organized research, less than 5% will probably be devoted to human-social questions; indeed, this percentage will probably be significantly lower.

The issue of the imbalance between technological versus human-social is raised because the agricultural research establishment—if I may use a sociologically descriptive term—has been institutionally disinterested in the consequences of their work for rural social structure. Through the development of a host of biological, chemical and engineering resources, the agricultural research establishment has effectively served the privileged sectors of agriculture, either ignoring the less privileged or, in many cases, actually doing damage to these sectors. Relatively little has been done, for example, to deal with the low-income sector of rural society. If we consider the support reported in 1970 by the United States Department of Labor—an agency relatively concerned about agricultural labor—to "farm workers and the rural areas," we find that only five projects (of which two supported my work at Cornell) had policy implications intended for farm workers as farmworkers. This compared to 13 projects devoted to various phases of settling farm workers *out* of agriculture. The major beneficiaries of 26 other projects were geared toward groups other than farm workers. I have not had an opportunity to study the situation in the United States Department of Agriculture but my opinion is that they have been much less concerned than the United States Department of Labor about rural farm workers.

***Peter J. Divizich*, grape farmer, Delano, California:**
I came to this country from Yugoslavia, my birth place, when I was a young man. I settled in the San Joaquin Valley when it was still largely an undeveloped wilderness.

All of my life I have been engaged in farming from the point of taking raw land and developing it to the fertile and productive fields that provide the main wealth of this valley.

Because of this long experience in California farming, I feel that I have had a unique opportunity to see the development of agriculture in this state and this valley.

My first farming venture occurred in the 1920s. I acquired a small prune orchard in an area that is now part of the town of Porterville. The home that was put upon that land was built with my own hands. The product of that prune ranch was used to acquire and develop other farm lands.

Through the process of developing new lands, my ranching operation grew until some 4000 acres of table and wine grapes were in production. There were other lesser acreages devoted to other produce, cotton and wheat. These grapes were marketed throughout the world.

The growth and good fortune I enjoyed were in many ways a parallel to the American dream of success coming to those who persevere and work hard. I do not mean to brag because I am aware that this growth was not only due to hard work but to the blessings that nature bestowed upon this valley.

In my story there is a darker side and that also is an important part of the picture of agriculture in this valley.

The expansion that led to my growth required large amounts of capital. The farmer has always had to depend upon money from outside sources to finance the development of his lands. The heavy expenditure required to develop must be made knowing that no income is possible for several years. The farmer must have financing by institutions that recognize this fact of life in farming. The lender must be aware that the farmer is subject to weather, strikes, marketing conditions and other factors beyond his control which can seriously affect his short term ability to pay.

In my own development, I was financed by the Bank of America. This borrowing relationship went back almost thirty years. They benefited from the arrangement as I did. In the period from 1959 through 1964, I was financed primarily with loans which were due and payable at the end of each crop year. When these could not be repaid because of the lag between the development of the lands and their income producing period, the debts were in default.

The lender, in spite of the years of mutually beneficial dealing and in spite of lender's knowledge of the reasons for the unpaid loans, commenced foreclosure proceedings. These activities finally led to the loss of a ranching operation that had been valued in excess of twelve million.

***George Thayer*, almond grower:**
I believe that we have created the worst welfare system of all times—the welfare system for the corporate farm. If we can abolish this welfare system for the corporation, I believe that we can once again start thinking about truly productive land rich in human resources. Land that gets more individuals on the farm and keeps them there as taxpaying citizens. Then,

and only then, can we take pride in capitalism and free enterprise.

Many of us have contributed to this trend to destroy individual enterprise through ignorance. We have assumed that to become big in agriculture was an indication of greatness, when just the opposite is the case. Instead, vast agricultural corporations are destroying our traditional qualities of greatness. They are limiting the opportunity for individual enterprise initiative and creative expression. These corporations in partnership with the state are creating corporate-state serfs in labor. They are dependent upon corporate-state lawyer serfs and they control corporate-state political serfs. Even more disturbing is the fact that we have considered it unpatriotic if we fail to support these abuses of our democratic system.

We have considered it unpatriotic if labor seeks to become more than corporate-state serfs. We have granted subsidies, tax shelters and state water at the request of corporate-state legal and political serfs in the mistaken idea that we are supporting a democratic system. We have shouted communist at the real patriots in this country who suggest that we must cease to support these corporations and give individual enterprise a fair chance.

It is reasonable to believe that it is not too late to reverse this oppressive condition through our democratic system. It is not too late to enforce 160 acre limitation on federal water and force the conglomerates to sell to individuals. It is not too late for our federal land banks and other lending institutions to establish realistic formulas for creating capital for family size economic units. It is not too late to prohibit a corporation receiving oil depletion subsidies from using this same land for agriculture. It is not too late for the state to force those companies who finance farmers into overproduction of crops to honor their contracts when overproduction has been achieved as has been the case with peaches and poultry and will be the case with grapes and other products. It is not too late to force vertically integrated conglomerates to establish reasonable prices for the raw material rather than to take the profit from some vague segment of the vertical structure in order to drive more farmers out of business.

It is not too late to reverse this trend toward destruction that has been created through ignorance. But, if we fail to make corrections immediately we can no longer be considered ignorant, we must be considered traitors to our democratic way of life.

An Indian Guide

The proud tribe of the Nez Perce Indians was led by a man named Chief Joseph. His affection for the land out of which he came never ceased, and Chief Joseph was unremitting in his attempts to remain in the valleys and mountains of his birthplace. In this passage he makes clear his sentiments regarding ownership of the earth.

The earth was created by the assistance of the sun, and it should be left as it was . . . The country was made without lines of demarcation, and it is no man's business to divide it . . . I see the whites all over the country gaining wealth, and see their desire to give us lands which are worthless . . . The earth and myself are of one mind. The measure of the land and the measure of our bodies are the same. Say to us if you can say it, that you were sent by the Creative Power to talk to us. Perhaps you think that the Creator sent you here to dispose of us as you see fit. If I thought you were sent by the Creator I might be induced to think you had a right to dispose of me. Do not misunderstand me, but understand me fully with reference to my affection for the land. I never said the land was mine to do with as I chose. The one who has the right to dispose of it is the one who has created it. I claim a right to live on my land, and accord you the privilege to live on yours.

From Touch the Earth, by T.C. McLuhan (Outerbridge & Dienstfrey)

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[From San Francisco Progress, Jan. 5, 1972]

BIG U.S. HEARING ON FARMWORKERS HERE

A U.S. Senate subcommittee studying the impact of agri-business and agri-government on farmers and farm-workers will hold hearings in San Francisco on Jan. 11 and 13.

Senator Adlai E. Stevenson III of Illinois, chairman of the Subcommittee on Migratory Labor of the Senate Committee on Labor and Public Welfare, announced that hearings will be held in San Francisco Tuesday, Jan. 11, and Thursday, Jan. 13, and in Fresno on Wednesday, Jan. 12.

The California hearings will continue the subcommittee's study of what Stevenson has termed a "vast upheaval in rural America," characterized by the growth of "forces of bigness" and the disappearance of family farms.

"California is the most productive agricultural region in the world," Stevenson said, "but what we see emerging in many parts of the country—is corporate feudalism.

"Large landowners and giant corporations reap most of the profits from farming and real estate appreciation. Small farmers' incomes are eroded by subsidized corporate competition and rising land taxes.

"Farmworkers—notably migrants—and their families are doomed to lives of poverty and hopelessness, or are forced to move to urban slums in hopes of finding work or going on welfare."

Both hearings in San Francisco will begin at 9 a.m., Ceremonial Courtroom, 19th floor, Federal Bldg., 450 Golden Gate Ave.

Senator Stevenson said the subcommittee hearings would answer these questions:

- Who owns the land in California?
- What are the consequences of landholding patterns on farmers and farmworkers, on consumers, on rural communities and on the environment?
- How do federal and state policies affect the distribution of land, wealth and power in California?

Witnesses will include state and federal officials, farmers and farmworkers, representatives of business and labor and experts in a number of subject areas, including taxation, rural sociology, agricultural economics, population distribution and movement and economic development.

[From the San Francisco Examiner, Jan. 9, 1972]

HEARINGS HERE ON FARM LAND

(By Lynn Ludlow)

Senator Adlai E. Stevenson III will come to town this week with questions about California's land ownership patterns and a favorite quote from Thomas Jefferson.

The Illinois Democrat, who blames "corporate feudalism" with increased productivity for the poverty of farm workers, is chairman of a Senate subcommittee that scheduled hearings here in The Federal Building at 9 a.m. Tuesday and Thursday and in Fresno on Wednesday.

He wants answers to these questions:

- Who owns the land in California and what are the consequences for farmers, farm workers, consumers, rural towns and the environment itself?
- How do governmental policies affect the distribution of land, wealth and political-commercial power?

Senator Robert Taft Jr., the Ohio Republican, was expected to accompany Stevenson. The subcommittee on migratory labor is part of the Senate Committee on Labor and Public Welfare.

Stevenson quoted Jefferson's hopes that America's abundance of farm lands would create "not only a new form of government but a new kind of man: self-reliant, free and prosperous."

Such men would "safely and advantageously reserve to themselves a wholesome control over their public affairs and a degree of freedom which, in Europe, would be instantly perverted . . ."

Witnesses on Tuesday are expected to include Jerry Fielder, State Secretary of Agriculture; Robert Long, vice president of the Bank of America; Dolores Huerta, associate director of the United Farm Workers Organizing Committee; John Henning, of the California AFL–CIO, and Dr. Richard Norgaard, University of California department of agricultural economies in Berkeley.

ENVIRONMENT

A panel on environmental implications includes Michael McCloskey, executive director of the Sierra Club; Keith Roberts, California Action, and Gerald Meral, Environmental Defense Fund.

According to the recent Nader Report on Land and Power in California, the state's biggest land owner is Southern Pacific Railroad with 2.4 million acres. Of the state's 100.1 million acres, 51.2 million are privately held.

SECRETARY BUTZ

Stevenson, son of the late Presidential candidate, was among the minority of Senators opposing President Nixon's appointment of Earl L. Butz, a Purdue University dean with Purina-Ralston business interests, as Secretary of Agriculture. He said Butz would favor "agri-business."

Stevenson has been mentioned also as a possible vice presidential candidate coupled with Sen. Edmund Muskie (D-Maine) on the Democratic ticket.

[From the San Francisco Chronicle, Jan. 12, 1972]

San Francisco Hearing on Failing Farms.—A Tough Row to Hoe

(By Michael Harris)

Senator Adlai E. Stevenson III said yesterday that federal subsidies to multimillion-dollar farming corporations may be dooming family farms to bankruptcy and sending rural workers onto city welfare rolls.

The Illinois Democrat, conducting three days of hearings in Northern California as chairman of the Senate Subcommittee on Migratory Labor, heard his fears echoed by a series of witnesses who testified in the Federal Building here.

Among the developments in agriculture listed in the day's hearings were these:

- More than half of California's 11.8 million acres of farmland are in corporate ownership—a million of them controlled by Tenneco, a nationwide conglomerate.
- It is becoming increasingly difficult, according to a senior Bank of America official, to find economic justification for loans to California peach and prune growers.
- The corporate farm, which had been regarded as a California phenomenon, now is bursting into similar growth in such places as Maine, Florida and even the Midwest.

"Do farm subsidies, tax breaks, wage laws, land reclamation projects and agricultural research work to the special advantage of the biggest and richest farmers?" Stevenson inquired.

"If that is the sum total of United States farm policy, we must face the fact that we are not helping farmers—we are subsidizing Simon Legree."

CHANGES

The witnesses did not all appear to be as troubled as Stevenson but all agreed changes in policy were necessary.

"Jerry W. Fielder, director of agriculture in Governor Ronald Reagan's administration, said he, too, fears that small farmers could not compete effectively.

"It is not so much a matter of size but of tax advantages," Fielder observed. "We look with concern on the ability of some farm organizations to get tax advantages that small farmers cannot."

George Ballis, a Fresno farm journalist, said agricultural programs from the 19th century days of the Homestead Act have been designed to encourage family-sized farms and have instead opened the way for investors to make millions in agriculture.

"The problem is that reforms don't work," Ballis continued. "The crop subsidy was supposed to keep small farmers on the land, but it has been used for the last 30 years to drive him off."

Paul Taylor, professor emeritus of economics at the University of California at Berkeley, testified he was waiting skeptically to see whether the United States Department of Agriculture will maintain the crop subsidy limits ordered last year by Congress.

After learning that individual corporate growers had been paid as much as $5 million a year in subsidies by the government, Congress ordered a $55,000 ceiling on individual crop allotments.

"It remains to be seen if this will be observed any more than the 160-acre limit in federal water projects," Taylor said.

Robert W. Long, senior vice president of Bank of America, said he favors Federal loan guarantees and other financial aid to small farmers.

COST

"The actual cost of loans to farmers is lower than for our corporate borrowers," Long said. "What I am concerned about is their present earnings—their ability to repay at any level. The returns for the sale of peaches and prunes are below most growers' cost of production."

Harry Miller, a San Francisco lawyer, associated with consumer advocate Ralph Nader, protested the tax laws permit conglomerates to operate farms at a loss and still make money in the long run.

"Of the corporate ownerships of California farmland, over half are companies whose major business is in other fields," Miller said.

If the farm operations lose money, he continued, the losses can help reduce taxes on the rest of the business.

"They aren't really interested in agriculture," Miller said. "They're holding the land for speculative purposes and sooner or later, when its value goes up, they can sell it and reap their profit and only be taxed for capital gain."

John F. Henning, executive secretary-treasurer of the California Federation of Labor, urged enforcement of the 160-acre limitation, recognition of farm workers' right to organize and extension of social and educational benefits to farm workers' families.

[From the San Francisco Examiner, Jan. 13, 1972]

WATER POLICY HELD RUIN TO FARMERS

Representative Jerome Waldie said here today that "the water policies of the state and feredal governments—unless changed—will most likely result in the destruction of the small farmer, and the continued prosperity of the corporate farm."

The Contra Costa County Democrat said, however, that the probems facing California's agricultural industry, its farmers and its farm workers, are grave but not insoluble.

Waldie told a Senate subcommittee on migratory labor:

"Both the Bureau of Reclamation and the State of California want to bring in still more water to the San Joaquin Valley by the impounding of wild rivers in the north coast of the state.

NOT NECESSARY

"I have maintained that these rivers are not necessary for either agricultural, industrial or domestic use given the alternative of desalinization, recycling, and geothermal deposits."

He told the committee meeting here in the Federal Building that "I have joined with several colleagues in the House of Representatives in introducing legislation which will put new strength in the hands of the small farmer by forcing excess land owners to sell that land to the government for ultimate sale to other small farmers."

Yesterday in Fresno, the subcommittee heard a variety of attacks on so-called "syndicate farmers" who use capital from non-farm sources to compete with smaller growers.

TAX LOOPHOLES

Rep. B. F. Fisk, a Democrat from Fresno, urged an early completion of government studies now under way concerning ways to close tax loopholes syndicate farmers now enjoy.

"Syndicate farm land owners are usually high income earners in other fields who take immediate cash tax deductions for developing their land," said the veteran congressman yesterday.

"They can then farm in competition with the family farmer and can later sell and take the appreciated land value in capital gains tax."

Fresno grower John Garabedian said the syndicate farmer can undersell the man making his money only from the farm by using income from other sources.

JEOPARDY

"The end result can only mean that our entire agricultural output will be jeopardized as farmers leave the field and head to town for their livelihood . . ." he said.

The Subcommittee on Migrant Labor which is investigating the plight of the small farmer heard another approach in a statement by Chester Deaver, master of the California State Grange.

He said bigness alone is not detrimental but emphasized that farmers must be able to obtain a better bargaining position in the marketplace to survive.

Deaver said the Grange was particularly interested in a bill by Sisk and other legislators aimed at the establishment of farm bargaining cooperatives to give the grower greater "green power."

Sisk also urged the subcommittee members to support the measure saying the farmer too often "must compromise his asking price or lose his entire crop because he has no negotiating position."

LITIGATION

Attorney William Irwin, representing Delano grower P. J. Divizich, told the committee of his litigation against the Bank of America and Heggeblade-Marguleas, Inc., now a part of Tenneco, Inc.

He contended Divizich lost most of his holdings to H-M because of improper marketing of his products by H-M and because of the lending policy of the bank.

Irwin said big companies like Tenneco are "using their bigness" to unfair competitive advantage over small growers.

"In essence what it will lead to is that California will become a land of tenant farmers and we will all be buying at the company store," he said.

Divizich recently won $400,000 in damages from H-M and the bank and Irwin has filed antitrust action against them.

The panel, comprised of subcommittee Chairman Adlai Stevenson III and Sen. Robert Taft (R-Ohio) moved back to San Francisco today.

[From San Francisco Examiner, Jan. 14, 1972]

QUESTION OF RISKS.—FARMERS' PLIGHT BLAMED ON BANKS

(By Dick Alexander)

A California researcher has challenged the banking industry to adjust credit policies in agriculture to save the small farmers from going under.

"I feel that the availability of credit is the single thing now which could revitalize rural areas," James Lowery of Los Angeles told the U.S. Senate Subcommittee on Migratory Labor here yesterday.

Lowery, project director for the Center for New Corporate Priorities, issued this warning in the third and last day of hearings in the Federal Building on problems of the small farms and land ownership:

"If present small farmers do not have adequate credit, then they will certainly go under, and no one but the wealthiest individuals and the corporations can replace them, because of the extremely high costs of purchasing land and equipment.

"The banks still have the opportunity to adjust their credit policies in agriculture," he added. "If they accept that it is good for agriculture in the long run, and they are prodded to do so."

The Subcommittee, headed by Sens. Adlai E. Stevenson III (D-Ill.) and Robert Taft Jr. (R-Ohio), heard this testimony by Lowery, whose organization has been examining issues of corporate responsibility for the past 15 months:

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Robert W. Long, Bank of America senior vice president in charge of agricultural loans, testified before the subcommittee Tuesday:

"The only reason the Bank of America cannot substantially increase its credit commitment to farmers is because of deepening economic pressures."

These pressures, he said, are associated with rising costs of production and of land, taxes, labor and equipment without commensurate increases in returns from the sale of crops

LOWERY FURTHER TESTIFIED

- There will be a net loss of 75,000 jobs in California in the next 20 years because of mechanization.
- The California Water Project may well be a killing blow to small farmers on the east side of the San Joaquin Valley while increasing acreage in production on the west side.

[From San Francisco Examiner, Jan. 2, 1972]

S. F. HEARING ON "CORPORATE FEUDALISM"

WASHINGTON—A Senate subcommittee headed by Sen. Adlai Stevenson (D-Ill.) will open hearings in California this month to study what Stevenson called the growth of "corporate feudalism" in rural America.

The hearings—scheduled for Jan. 11 and 13 in San Francisco and Jan. 12 in Fresno—will focus on what Stevenson has termed a "vast upheaval in rural America" marked by the disappearance of family farms and the growth of "forces of business."

Although California is one of the world's most productive agriculture regions, Stevenson said, "What we see emerging in many parts of the state—as in other parts of the country—is corporate feudalism.

'Large landowners and giant corporations reap most of the profits from farming and real estate appreciation," he added. "Small farmers' incomes are eroded by subsidized corporate competition and rising land taxes. Farm workers—notably migrants—and their families are doomed to lives of poverty and hopelessness, or are forced to move to urban slums in hopes of finding work or going on welfare."

The Labor and Welfare subcommittee announcement said the California hearings would dwell on three questions:

- Who owns the land in California?
- What are the consequences of landholding on farmers, farm workers, consumers, rural communities and on the environment?

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UNITED STATES VICTIMIZING SMALL FARMERS, SENATE PANEL TOLD

(By Philip Hager)

SAN FRANCISCO.—The family farm is just as efficient as the big corporate farm, a Fresno county grape grower declared before a U.S. Senate subcommittee hearing Tuesday.

But, said Berge Bulbulian, the small farm is being victimized by tax, credit and subsidy policies that favor large landholders.

"Put the giant corporate farms on the same level we family farms operate on and we will see who is efficient and who is not," said the 46-year-old Bulbulian, owner of a 150-acre wine and raisin grape farm in Sanger.

Bulbulian testified at a hearing conducted by Sen. Adlai E. Stevenson III (D-Ill.), chairman of the Senate subcommittee on migratory labor.

Stevenson is holding three days of hearings in the state on patterns and consequences of agricultural landholdings in California and the effects of governmental policies on farming, the state's No. 1 industry.

ECONOMIC DECLINE

Witness after witness testified to the economic decline of the family farm in California. In 1960 there were 108,000 farms in the state, averaging 359 acres each. By 1970 there were only 56,000 farms, averaging 654 acres. According to the U.S. Department of Agriculture, in 1970 a total of 45 corporations controlled 61% of California's prime agricultural land.

Bulbulian, the subcommittee's leadoff witness, described how his father, Yghish, now 79, came to this country from Armenia in 1920 and worked in the fields until he was able to make a down payment on a farm.

"Today no semi-literate farmworker would, in his wildest dreams, dream of owning a farm," said Bulbulian. "It's almost impossible."

The belief that small farms are inherently inefficient is a myth, he added, noting that the smaller farmer works longer hours and pays closer attention to the land he owns.

* * * * * * *

He contended that the corporate farms take advantage of tax loopholes, big government subsidies, lower credit costs and the results of university and governmental research designed to benefit them—all at the expense of the small farmer.

Bulbulian is one of the founders of the recently formed National Coalition For Land Reform, with headquarters in San Francisco and Cambridge, Mass.

A number of witnesses, including John F. Henning, executive secretary-treasurer of the California Labor Federation AFL–CIO, advocated enforcement of the 160-acre limitation on federally subsidized water, part of a national Reclamation Act, of 1902 aimed towards developing the family farm.

Henning estimated that, in California at present, about 300,000 acres are owned and receive subsidized water in excess of the 160-acre limitation.

In response to questions from Stevenson, Jerry W. Fielder, state director of agriculture, opposed enforcement of the limitation. "A whole economy has developed around a lack of enforcement," said Fielder, "The 160-acre limitation isn't practical any more. If reinstituted . . . it would not suffice to take care of a minimal economic entity."

Fielder also disagreed with Bulbulian's contention that young people today are effectively prohibited from buying and operating a farm. "It is far more difficult that it was in the past, but the opportunity is there," the director said.

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[From the San Francisco Examiner, Jan. 12, 1972]

FARM SITUATION CRITICAL

(By Dick Alexander)

A California labor leader said the situation facing farm workers in the state and throughout the nation is a scandal and "unless we make the land more attractive there will be a continued migration" away from the farms.

John F. Henning, executive secretary-treasurer of the California Labor Federation, AFL–CIO, told a U.S. Senate subcommittee on migratory labor yesterday:

"Farm workers continue to live, in most cases, in inadequate housing, often without such basic amenities as running water and indoor toilets."

He said the only way farm workers can achieve an adequate standard of living is through unionization.

ADLAI

Henning, was a witness in day-long hearings before the committee conducted in the Federal Building by Sen. Adlai E. Stevenson III (D-Ill.).

Stevenson said the purpose of the three-day hearings was "to find a national policy whose effect is not simply efficiency or progress or economy of scale, but a decent life for all rural Americans."

Henning said Congressional action is needed now on extending the National Labor Relations Act to farm workers providing them with unemployment insurance and workmen's compensation coverage and guaranteeing them the federal minimum wage.

He also urged that Congress:

- End illegal alien entrance to California's farm labor market and insist the Immigration Service enforce existing laws on aliens.
- Provide for expanded housing programs for rural America.
- Develop a federal program to provide a decent education for children of migratory farm workers.

Stevenson said his subcommittee would also focus on the question of who owns land in California.

Robert W. Long, Bank of America senior vice president in charge of agricultural loans, testified:

"The smaller farmer whose operation is unable to achieve the same or better economies of his neighbors, no matter what size, will not be able to continue in the present economic circumstances."

He said the only reason the Bank of America—"which provides nearly 40 percent of all non-real estate agricultural loans in California"—cannot substantially increase its credit commitment to farmers is because of deepening economic pressures.

FEWER FARMS

The number of farms has fallen from 104,000 10 years ago, he said, to some 56,000 today.

"This reflects the pressures associated with rising costs of production and of land, taxes, labor and equipment without commensurate increases in returns from the sale of crops."

Pointing out that unofficial estimates place total average investment per California farm at about $400,000 with a net return at some $16,000 per farm, or about 4 percent, Long said the bank is in the process of developing an agricultural business planning service—"which should benefit farmers large and small."

"This system is designed to assist in setting more responsive lending policies," he added, "helping officers make individual credit decisions and serve as a planning tool for the individual farmer too."

Yesterday's hearing also included this testimony:

"A farmer's market in California—in my estimation—has been converted into a flea market."—Dr. William Friedland, University of California at Santa Cruz.

"If we don't do something about rural America, perhaps we should change the inscription on the Statute of Liberty to read: 'Keep out—enterprise closed.'"—Berge Bulbullian, Sanger farmer and founding member of National Coalition for Land Reform.

[From the Los Angeles Times, Jan. 13, 1972]

CORPORATE FARMERS TAX BREAKS ATTACKED

COMPETITION COULD FORCE SMALL GROWERS TO MOVE INTO CITIES, SENATE GROUP TOLD

FRESNO—Giant corporate farms are using tax loopholes and capital from nonfarming sources in unfair competition that could make small farmers "head to town for their livelihood," a Senate subcommittee was told here Wednesday.

One witness at the hearing by the subcommittee on migratory labor said such competition could make California "a land of tenant farmers."

Rep. B. F. Sisk (D-Fresno) told the hearing's chairman, Sen. Adlai Stevenson III (D-Ill.), that marketing and bargaining legislation is needed to give the small farmer a better negotiating position.

The little farmer "in too many cases must compromise his asking price or lose his entire crop because he has no negotiating position," Sisk said.

OTHER INCOME

He also urged a closing of tax loopholes which he said favor syndicate farmers to the disadvantage of the small farmer.

Sisk, who represents the San Joaquin Valley's rich central farming region, said the syndicate farm land owners usually have income from other sources, take immediate cash deductions for developing their land, and then farm in unfair competition with the small grower. Later, if they sell they can take the appreciated land value in capital gains tax, the legislator said.

He was one of a number of witnesses lashing out at syndicate farmers at the hearing Wednesday.

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Attorney William Irwin, representing Delano grower P. J. Divizich, told the committee his client lost most of his holdings to a corporate farm interest because of improper market of his products by that company and because of a bank lending policy.

"In essence, what (this sort of thing) will lead to is that California will become a land of tenant farmers and we will all be buying at the company store," Irwin said.

Divizich recently won $400,000 in damages from the Bank of America and Heggeblade-Marguleas, Inc., now a part of Tenneco, Inc., and Irwin said he has filed antitrust action against them.

Witnesses included Chester Deaver, master of the California Grange, who said bigness alone is not detrimental but stressed that small farmers must be able to obtain a better bargaining position in the marketplace to survive.

CARE OF LAND

Before opening the hearing, Stevenson said present laws do favor corporations at the expense of the family farmer.

Furthermore, he said, "the corporations don't take as good care of the land as the family farmers."

The hearing today will move back to San Francisco, where Tuesday's testimony included a request for a congressional investigation of reports of a plot to assassinate farm labor leader Cesar Chavez.

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[From the Fresno Bee]

SISK URGES HELP FOR FAMILY FARM

(By Ron Taylor)

Rep. B. F. Sisk, D-Fresno, today urged the U.S. Senate migratory labor subcommittee to support legislative efforts to strengthen the family farmer's market bargaining position and eliminate tax shelters and loopholes now used by farm "syndicates."

Sisk was the lead-off witness as the subcommittee moved its hearings to Fresno this morning. Chaired by Sen. Adlai E. Stevenson III, D-Ill., the subcommittee is investigating the effects of conglomerate farming on the family farm.

Yesterday's session in San Francisco centered around what several witnesses identified as the misuse of the Federal Reclamation Act's 60-acre limitation provisions.

John H. Henning, executive secretary of the California Labor Federation, AFL–CIO, told the subcommittee an estimated 900,000 excess acres owned by large corporations is being irrigated illegally in California federal projects.

Sociologist Paul S. Taylor, a student of rural California and small farm communities for nearly half a century, declared. "This (160-acre limit) law has been under tenacious attack within each branch of government . . ."

In his statement this morning, Sisk said, "Agriculture is at its lowest point since the depression of the 1930s. Pairty in 1970 was 72 per cent. Farm prices are low, crops are in surplus and farm costs are high.

"The family farmer, the bedrock of the farming economy, is in a huge economic squeeze."

Where other witnesses have directly attacked large-scale, corporate farming, particularly the conglomerates, Sisk warned against "highly integrated farming."

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BARGAINING PLAN

Sisk urged the senators to support legislation to establish a form of collective bargaining for the farmer in the market place and for inclusion of farm labor under the existing National Labor Relations Act.

Other witnesses scheduled for today included Howard Marguleas, vice president of Heggblade-Marguleas-Tenneco. He was expected to counter the often pointed attacks on conglomerate farming made during yesterday's session.

A three-man panel representing the Agribusiness Accountability Project yesterday morning set the tone by attacking both the giants like Tenneco and the federal and state government agencies that have allowed subversion of law to aid the large corporate farms.

One panel member, George Ballis of Fresno, pointed to the list of laws passed to aid the small family farmer which had been used instead by the large corporations. These started with the Homestead Act, the Reclamation Act, the Crop Subsidy Act and included the War on Poverty Act.

RAILROAD FARMLAND

Another panelist, A. V. Krebbs, urged legislation to nationalize the nation's railroads and return the vast holdings of railroad farmlands to the people. Krebs said, "Redistribution of public lands presently in the hands of the railroads would be one step toward helping the little man of this country."

Most of the witnesses strongly supported proposals to use the limitation to break up large land holdings.

Taylor explained to the committee the Reclamation Act requires the farmer to live on or near the land and the intent was for the benefit of small farmers. "But passing a law (in 1902) doesn't assure enforcement," he added.

"On the West Side of the Central Valley, federal construction proceeds to serve with water 400,000 acres, around two-thirds of which are ineligible to receive it; a single owner holds over 100,000 acres within the project."

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[From the Nation/Jan. 3, 1972]

It is welcome news that Sen. Adlai Stevenson, chairman of the subcommittee on Migratory Labor, will open hearings in San Francisco on January 11 (the subcommittee will move to Fresno the following day and then back to the Bay Area). It may be hoped that the subcommittee will take a broad view of its mandate. Migratory farm labor is not an issue that stands by itself, as the LaFollette committee found out during its monumental hearings in 1939–40. In California and elsewhere, migratory farm labor is related to patterns of land use, the concentration of ownership, the intrusion of corporate farming (now read "agribiz"), the problems of small farmers, and what has happened to rural life in general.

On the eve of Senator Stevenson's visit, Stanford University observed the fiftieth anniversary of its Food Research Institute. A note of uncommon good sense echoed in the papers and discussions, on matters not at all unrelated to those which will concern the Senator, his staff and his colleagues. The best strategy for developing countries, Ian D. Little of Oxford University told the conference, is to increase the demand for labor in agriculture. For those countries to spend foreign currency, always in short supply, on tractors, may result in more profits for large landowners but it may also produce a sharp displacement of rural farm workers, with little net gain in agricultural production. The better strategy would be to induce a degree of income equalization in rural areas that existing political structures will not tolerate. Similarly, the best practical way to cope with the population "explosion," so-called, is to improve the conditions of rural life. But people cannot be kept "down on the farm," if no farm is willing to keep them.

Nor is this axiom limited to developing countries. In the United States we profess to be concerned about urban ghettos, traffic congestion, ecological hazards and population increase; but it is only, on an average, about once every thirty years that we even go through the motions of demonstrating a concern for the well being of rural residents and the viability of rural communities. Senator Stevenson's committee has a chance, therefore, to bring forward some issues that stand in need of close scrutiny.

[From Los Angeles Times, Jan. 12, 1972]

U.S. VICTIMIZING SMALL FARMERS, SENATE PANEL TOLD

(By Philip Hager)

SAN FRANCISCO.—The family farm is just as efficient as the big corporate farm, a Fresno county grape grower declared before a U.S. Senate subcommittee hearing Tuesday.

But, said Berge Bulbulian, the small farm is being victimized by tax, credit and subsidy policies that favor the large landholders.

"Put the giant corporate farms on the same level we family farms operate on and we will see who is efficient and who is not," said the 46-year-old Bulbulian, owner of a 150-acre wine and raisin grape farm in Sanger.

Bulbulian testified at a hearing conducted by Sen. Adlai E. Stevenson III (D-Ill.), chairman of the Senate subcommittee on migratory labor.

Stevenson is holding three days of hearings in the state on patterns and consequences of agricultural landholdings in California and the effects of governmental policies on farming, the state's No. 1 industry.

ECONOMIC DECLINE

Witness after witness testified to the economic decline of the family farm in California. In 1960 there were 108,000 farms in the state, averaging 359 acres each. By 1970 there were only 56,000 farms, averaging 654 acres. According to the U.S. Department of Agriculture, in 1970 a total of 45 corporations controlled 61% of California's prime agricultural land.

Bulbulian, the subcommittee's leadoff witness, described how his father, Yghish, now 79, came to this country from Armenia in 1920 and worked in the fields until he was able to make a down payment on a farm.

"Today no semi-literate farmworker would in his wildest dreams, dream of owning a farm," said Bulbulian. "It's almost impossible."

The belief that small farms are inherently inefficient is a myth, he added, noting that the small farmer works longer hours and pays closer attention to the land he owns.

"There is no way a large concern with various levels of bureaucracy and managed by absentee owners, can compete in terms of true efficiency," said Bulbulian. "I, as a small farmer, am the manager, personnel director, equipment operator, maintenance man, bookkeeper, laborer and welder."

He contended that the corporate farms take advantage of tax loopholes, big government subsidies, lower credit costs and the results of university and governmental research designed to benefit them—all at the expense of the small farmer.

Bulbulian is one of the founders of the recently formed National Coalition For Land Reform, with headquarters in San Francisco and Cambridge, Mass.

A number of witnesses, including John F. Henning, executive secretary-treasurer of the California Labor Federation, AFL–CIO, advocated enforcement of the 160-acre limitation on federally subsidized water, part of a national Reclamation Act, of 1902 aimed towards developing the family farm.

Henning estimated that, in California at present, about 900,000 acres are owned and receive subsidized water in excess of the 160-acre limitation.

In response to questions from Stevenson, Jerry W. Fielder, state director of agriculture, opposed enforcement of the limitation. "A whole economy has developed around a lack of enforcement," said Fielder. "The 160-acre limitation isn't practical any more. If reinstituted . . . it would not suffice to take care of a minimal economic entity."

Fielder also disagreed with Bulbulian's contention that young people today are effectively prohibited from buying and operating a farm. "It is far more difficult than it was in the past, but the opportunity is there," the director said.

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[From the San Francisco Chronicle, Jan. 14, 1972]

FARM WATER LAW PROPOSED

(By Michael Harris)

Congressman Jerome Waldie proposed yesterday that the government start enforcing a 70-year-old law forbidding the delivery of federally subsidized water to large farms and absentee landlords in California.

The Antioch Democrat told the Senate subcommittee on migratory labor that the government has occasionally made gestures about enforcing the 160-acre limitation.

The law limits the delivery and sale of Federal water to farms no larger than 160 acres in single ownership and 320 acres for husband and wife.

But the U.S. Bureau of Reclamation has steadfastly ignored the rule which says Federal water may be delivered only to farmers living on or near their own land, he declared.

"At some point was it determined at an administrative level to ignore the residency requirement in the law?" demanded Senator Adlai E. Stevenson III (Dem-Ill.), chairman of the subcommittee, which ended a three-day Northern California hearing yesterday.

"We didn't know such a requirement existed until there was a court decision last month," replied P. J. Pafford Jr., director of the Bureau of Reclamation's regional office in Sacramento.

If the Federal court decision is upheld, Pafford added, the effect could be startling in the dry western part of Fresno county where the big Westlands Water District has begun receiving supplies of Federal water from the new San Luis Reservoir.

"In the Westlands District, half the farms would qualify for water, and half would not," he said.

The 600,000-acre water district covers 5 per cent of California's farm land.

Pafford denied that his agency had failed to show vigor in enforcing the 160-acre limit. In the past 21 years, he declared, the bureau has secured agreements from farm owners to resell 246,000 acres of surplus land.

Of this amount, 65,000 acres—or less than one per cent of California's agricultural land—has changed hands already. Pafford said the rest will be sold within the next ten years or less.

Pafford's testimony and statistics appeared to illustrate Waldie's chief points.

"We pass laws, but they just throw us a bone," the Congress complained.

"We got a $55,000 subsidy limit written into the law, but we didn't succeed in changing anything. The people who were receiving a million dollars in subsidy payments in 1970 are still getting the same amounts."

Waldie said the chief reason the 160-acre limtiation has not been enforced is that "only a few—like me—really believe in it."

"Everyone who starts out by saying the 160-acre limit is obsolete and has to be changed is really saying he does not believe in the concept of a small farm," Waldie continued.

"I personally believe the small farm is an efficient operating unit that could compete if the tax laws and marketing rules were fair. But even if it weren't, I would still support the concept because of its social value—because its survival is necessary to preserve life in small communities."

The three days of praise for small farmers were interrupted with the testimony of Delores Huerta, vice president of the United Farm Workers organizing committee. She said the union, led by Cesar Chavez, found it much easier to win contracts from multi-million dollar conglomerates than from individual farmers.

"Conglomerates are more vulnerable to boycotts," Ms. Huerta said. "And they generally have someone in the organization who understands what labor relations are about."

She said the takeover of the California wineries by big companies with a wide range of interests was followed by better pay and improved housing for field workers. The firms did not want to risk the possibility of having their liquor, their chocolates and their other products made targets of a nation-wide consumer boycott, she explained.

"It is unfortunate that the smaller non-union growers are so blinded with their bigotry and unreasonable attitudes against the unionization of farm workers," Ms. Huerta said.

"We have so many problems in common and so many common interests that we should unite for our joint survival . . . but the farmers are trying to fight to survive (against the conglomerate) by keeping our pay low."

[From the California Farm Bureau Monthly, February 1972]

EDITORIALS

Senate Labor Subcommittee Seeks To Reform Farming

(By Allan Grant)

U.S. Senator Adlai E. Stevenson of Illinios brought the Senate Subcommittee on Migratory Labor, which he chairs, to California last month for a series of hearings in San Francisco and Fresno. The purpose of the hearings, Stevenson said at the opening session, was to surface the changes taking place in rural America and "to find a national policy whose effect is not simply efficiency or progress or economy of scale, but a decent life for all rural Americans." In other words, the chairman of the Subcommittee of the Senate's Committee on Labor and Public Welfare, has taken it upon himself and his Subcommittee to rewrite policy for the nation's farming areas.

The Senator set the tone of the hearings during his introductory remarks by saying that the nation's rural areas are extremely depressed, with "one and a half million family farmers struggling for survival and a million migrant workers living in poverty." He implied that the root of agriculture's problems lies in the entry of "conglomerates," or non-agricultural corporations, into farming.

With the Senator on an apparent "witchhunt," it was not surprising that the subject matter of the hearings thus centered almost entirely on the evils of large corporations in farming. And it was not surprising that the hearings thus became a platform for advocating land reform—limitation of individual farm holdings to 160 acres, having the government buy up the "excess" acreage over 160 acres and "resell" it to small farmers on government secured loans, etc., etc.

Agriculture today indeed has its problems. And certainly all farmily farmers who derive their income solely from farming are deeply concerned about non-agricultural corporations using the advantages of tax write-offs and land appreciation for entering farming.

The delegates of the California Farm Bureau Federation at their last annual meeting called for the American Farm Bureau to undertake a study to consider the desirability and feasibility of regulating the entry of huge, non-agricultural organizations into farming. And the delegates of the American Farm Bureau later endorsed this policy. The non-agricultural corporations entering farming are certainly not entitled to greater advantages than afforded family farmers.

160-ACRE FANTASY

However, to believe that the problems of all farmers and farm workers can be resolved and the nation's best interests served by invoking a 160-acre limit in agriculture is pure fantasy.

In testimony submitted to the Senate Subcommittee hearing at Fresno, I pointed out that larger units need not be characterized as the "conglomerate" type of farming enterprise, operating to the detriment of other types of farmers.

Large and small scale farmers, farm workers and rural communities and consumers all have benefited from the pattern of development which California agricuture has experienced over the past twenty years.

The average-size farm in California today is 654 acres. This is not to say each farm is 654 acres; many are smaller, some are larger. However, the trend has been towards larger farming units so the farm operator could afford the use of specialists in the areas of land, labor, capital and management in addition to his own expertise. In each of these areas, larger inputs have become necessary to provide an economic efficiency that other businesses have used for decades.

The farm workers have not been hurt by the expanding size of farm units in this state. On the contrary, they have been helped. Because farmers can spread costs over greater numbers of units, California farmers today pay the highest rate of wages to farm workers anywhere in the nation. Workers have benefited from longer earning periods at one location or multiple locations with relatively few employer changes. Because of the stabilizing effect the larger units have had, farm workers have become less migratory in this state. They are able to put down roots, and efforts are being made to help them upgrade their housing and general standard of living.

The small farmer has been able to take full advantage of the economic developments over the past twenty years to achieve additional efficiencies in his operation. He has benefited through the formation of cooperative marketing and bargaining associations, improved technology on the farm, the development of custom farming services, the stabilization of the farm labor force, etc.

However, the primary beneficiary of the everchanging pattern of agricultural production in this state and throughout the country has been the consumer. Today's housewife spends approximately 16 percent of her take-home pay for food. Just twenty years ago, she spent 22 percent.

Those who seek to "save the family farm and to expand land ownership in America by enforcing the Reclamation Act of 1902," will harm the very people they profess to want to help. Conditions for family farmers and farm workers will slip backwards, not move forward.

TIMES HAVE CHANGED

The Reclamation Act, which provides that no single-ownership farm of more than 160 acres may receive water from a Federally-financed irrigation project, was based on the earlier 1862 Homestead Act, which allowed settlers to claim and prove up 160 acres. In the nineteenth century, 160 acres was accepted as an adequate, economic sized farm unit. And in the late nineteenth century, 35% of the population was needed on the farms to produce food to feed the nation. One person working on the farm supplied enough farm products for himself and five to six others.

Times have changed, however, and agriculture has changed with the times. Today, through substituting machinery, modern technology and capital for labor, one person in farming can supply himself and 47 other people with food, and less than 5% of the total population is on farms. This release of manpower to other areas of the economy over the years is a basic contributing factor to our existing high standard of living. To revert back to nineteenth century standards in producing this nation's food and have a third of the people farming would certainly downgrade the country's standard of living.

Some sentimentalists, others with little vision and understanding of the future food needs, and still others with little use for the private enterprise system, advocate the 160-acre limitation and return to farming as a way of life. While living and working in the country has its advantages, I would venture to say that the nation as a whole does not place much importance on farming as a way of life. People are most interested in reasonably priced and plentiful food.

In this modern age with its increased costs, reasonably priced and plentiful food will come only from economically sized farming units. The size of the economic unit varies commodity by commodity and thus it is not possible to set an arbitrary figure suitable to all crops.

Mexico, a lesser developed nation than the United States, has recognized that farming units have to be large enough to be profitable and competitive in modern times. In her policy covering Federally-financed water projects, she has set the acreage of single ownership farms which may receive water far above the 160-acre limit being advocated here.

There are better ways to correct the advantages "conglomerates" now find in agriculture than to revert back to an 1862 acreage standard and thus penalize farm operators, farm workers and the consumers of this nation.

While undoubtedly the Senator from Illinois is sincere in seeking ways to help rural America, perhaps he would be of greater service to the nation if he left development of policy for farming areas to the Agriculture Committee and got to work on the enactment of equitable farm-labor relations legislation.

[From Co-op]

SAN FRANCISCO HEARINGS—U.S. GOVERNMENT AND THE CALIFORNIA FARM WORKER

(By Bruce Hansen)

(Second of two articles on the January 11 and 13 hearings conducted in San Francisco by U.S. Senate Subcommittee on Migratory Labor.—Editor)

The plight of the California farm worker came in for a good deal of testimony at the hearings.

Dolores Huerta, vice president of the United Farm Workers Organizing Committee, charged that "the government has been in opposition to everything we demand . . . Nothing has changed in agriculture, even though laws have been passed and children are not supposed to work."

Nevertheless, the UFWOC leader said, the union has brought about substantial improvements in the wages and living conditions of the 10 percent of California farm workers who belong to it. Unionized farm workers, she said, have a guaranteed minimum wage of $1.90 to $2.40 an hour, while non-union farm workers earn only about $1.50 an hour, and as little as 50 to 60 cents an hour when they work on a piece-rate basis.

John Henning, secretary-treasurer of the California Labor Federation (AFL–CIO), noted that the average industrial worker's wage in California is more than $4 an hour.

The main cause of low wages and the painstaking unionization process of California's farm workers is "agriculture's success in obtaining a continuous supply of cheap, abundant, often illegal foreign labor," according to the statement California Rural Legal Assistance attorney Sheldon Greene submitted to the subcommittee.

"In 1970," according to Greene, "Immigration & Naturalization Service agents identified 113,000 illegal entrants in California alone."

Representatives of the Campesina cooperative, located near Watsonville and composed of former farm workers, explained how they set up what may be the only way for the farm worker to own the land he tills. Through a variety of grants the 31 members who now own the co-op received sufficient funding to acquire 160 acres of land. This year, a Campesina representative said, the cooperative expects to net $250,000 to $400,000.

Campesina counsel David Kirkpatrick made clear, however, that if the Campesina experiment is to be duplicated elsewhere, funding will have to be made more easily available.

Greater availability of credit is in fact the one thing that could most revitalize rural America, according to James Lowery, project director for the Center for New Corporate Priorities, Los Angeles.

Bank of America vice president Robert Long testified, however that small farmers are having an increasingly difficult time in meeting credit requirements. Presumably this means that less credit will be available in the future.

Senator Stevenson concluded the hearings by relating the request a farm worker made to him during the subcommittee's hearing in Fresno January 12.

"Please make it possible for my people to be farmers on our own land, and care for it with their own hands and love," Stevenson quoted the worker as saying. Stevenson continued, "He and others deserve that chance—I think it's up to Congress to find a way and make it possible."

[From the San Francisco Chronical, Jan. 12, 1972]

S. F. HEARING ON FAILING FARMS—A TOUGH ROW TO HOE

(By Michael Harris)

Senator Adlai E. Stevenson III said yesterday that federal subsidies to multimillion-dollar farming corporations may be dooming family farms to bankruptcy and sending rural workers onto city welfare rolls.

The Illinois Democrat, conducting three days of hearings in Northern California as chairman of the Senate Subcommittee on Migratory Labor, heard his fears echoed by a series of witnesses who testified in the Federal Building here.

Among the developments in agriculture listed in the day's hearings were these:

• More than half of California's 11.8 million acres of farmland are in corporate ownership—a million of them controlled by Tenneco, a nationwide conglomerate.

• It is becoming increasingly difficult, according to a senior Bank of America official, to find economic justification for loans to California peach and prune growers.

• The Corporate farm, which had been regarded as a California phenomenon, now is bursting into similar growth in such places as Maine, Florida and even the Midwest.

"Do farm subsidies, tax breaks, wage laws, land reclamation projects and agricultural research work to the special advantage of the biggest and richest farmers?" Stevenson inquired.

"If that is the sum total of United States farm policy, we must face the fact that we are not helping farmers—we are subsidizing Simon Legree."

CHANGES

The witnesses did not all appear to be as troubled as Stevenson, but all agreed changes in Federal law were necessary.

"Jerry W. Fielder, director of agriculture in Governor Ronald Reagan's administration, said he, too, fears that small farmers could not compete effectively.

"It is not so much a matter of size but of tax advantages," Fielder observed. "We look with concern on the ability of some farm organizations to get tax advantages that small farmers cannot."

George Ballis, a Fresno farm journalist, said agricultural programs from the 19th century days of the Homestead Act have been designed to encourage family-sized farms and have instead opened the way for investors to make millions in agriculture.

"The problem is that reforms don't work," Ballis continued. "The crop subsidy was supposed to keep small farmers on the land, but it has been used for the last 30 years to drive him off."

Paul Taylor, professor emeritus of economics at the University of California at Berkeley, testified he was waiting skeptically to see whether the United States Department of Agriculture will maintain the crop subsidy limits ordered last year by Congress.

After learning that individual corporate growers had been paid as much as $5 million a year in subsidies by the government, Congress ordered a $55,000 ceiling on individual crop payments.

"It remains to be seen if this will be observed any more than the 160-acre limit in federal water projects," Taylor said.

Robert W. Long, senior vice president of Bank of America, said he favors Federal loan guarantees and other financial aid to small farmers.

COST

"The actual cost of loans to farmers is lower now than for our corporate borrowers," Long said. "What I am concerned about is their present earnings—their ability to repay at any level. The returns for the sale of peaches and prunes are below most growers' cost of production."

Harry Miller, a San Francisco lawyer, associated with consumer advocate Ralph Nader, protested the tax laws permit conglomerates to operate farms at a loss and still make money in the long run.

"Of the corporate ownerships of California farmland, over half are companies, whose major business is in other fields," Miller said.

If the farm operations lose money, he continued, the losses can help reduce taxes on the rest of the business.

"They aren't really interested in agriculture," Miller said. "They're holding the land for speculative purposes and sooner or later, when its value goes up, they can sell it and reap their profit and only be taxed for capital gain."

John F. Henning, executive secretary-treasurer of the California Federation of Labor, urged enforcement of the 160-acre limitation, recognition of farm workers' right to organize and etxension of social and educational benefits to farm workers' families.

FILED

OCT 2 - 1972

CLERK, U. S. DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA
BY
DEPUTY

IN THE UNITED STATES DISTRICT COURT

FOR THE SOUTHERN DISTRICT OF CALIFORNIA

BEN YELLEN, et al.,

Plaintiffs,

vs.

WALTER J. HICKEL,
individually and as
Secretary of the Interior,
et al.,

Defendants.

W. L. JACOBS, et al.,

Intervening Landowners.

CIVIL No. 69-124-Murray

FINDINGS OF FACT
and
CONCLUSIONS OF LAW

This cause came on regularly for trial before the court, sitting without a jury, on April 25 and April 26, 1972; the plaintiffs were represented by Arthur Brunwasser, Esq.; the defendants were represented by William R. Klein, Esq., and Douglas N. King, Esq., of the Department of Justice, and the intervening landowners were represented by Charles W. Bender, Esq., Patrick Lynch, Esq., and James Selna, Esq.; thereupon oral and documentary evidence was introduced by and on behalf of each of the parties, and at the close of all of the evidence the parties rested and thereafter, within the time granted by the court, each of the parties filed their briefs and proposed Findings of Fact and Conclusions of Law, and the cause was then submitted to the court for its consideration and decision, and the court having considered all of the evidence and testimony submitted at the trial of the cause and the brief of counsel, and being fully advised in the premises, now mak orders filed its Findings of Fact and Conclusions of Law a

FINDINGS OF FACT

Parties.

I

Plaintiffs are a doctor, an agricultural labor contractor and 121 agricultural laborers who reside in Imperial Valley, California, within the boundaries of Imperial Irrigation District in the neighborhood of land being irrigated by water from the All-American Canal and held in private ownership by non-residents. Most of the plaintiffs are farm workers who are so employed within the boundaries of Imperial Irrigation District and none of the plaintiffs presently own farm land anywhere in the United States, but they desire to purchase land for farms within Imperial Irrigation District, including the lands of non-residents which lands are receiving Boulder Canyon Project water and which lands plaintiffs cannot afford to purchase under present market prices, and ownership.

II

The persons who occupied the positions of Secretary of the Interior of the United States and lower level officials of the Department of the Interior at the date of the commencement of this action have been substituted as defendants in the capacities indicated with the following statutory duties. Defendant Rogers C. B. Morton is Secretary of the Interior of the United States and is charged with the duty of carrying out the operative provisions of the Reclamation Act of June 17, 1902, and all acts mandatory and supplementary thereto by reason of Section 10 of the Act of June 17, 1902 (43 U.S.C. §373). Defendant Ellis L. Armstrong is Commissioner of Reclamation of the United States and is charged with the duty of administering the Reclamation Act under the supervision and direction of defendant Morton pursuant to 43 U.S.C. §373a. Defendant Edward A. Lundberg is Regional Director of the Bureau of Reclamation of the United States for Region 5 and is in charge of reclamation projects within the territorial jurisdiction of this court.

III

Intervening as defendants are W. L. Jacobs, Kathryn Farquhar, Dixie Herron, Frank Hertzberg, Alice E. Mamer, Theodore A. Mamer, Kathryn McBurney and William E. Young, Sr., who are all non-residents and owners of irrigable land located within Imperial Irrigation District. Intervention was allowed under Rules 24 and 19 of the F.R.C.P. on the basis of the petitioners' allegations that their interests in the delivery of water to the Imperial Valley will not adequately be represented by the Department of Interior.

Geological Conditions and Background of Reclamation

IV

In comparatively recent geologic time, the Gulf of Mexico extended inland to the northwest. Its upper limits reached northward of Indio, California. Through the years, the heavily silt-laden Colorado River deposited sediments and built up a low, flat deltaic ridge entirely across the ancient gulf, cutting off the upper portion from its connection with the ocean. The resulting basin was then an inland sea with a surface area of nearly 2,000 square miles. The greatest depth of this sea was about 320 feet. Deprived of its connection with the Gulf of California, the sea dried up. The northern part of its bed is now known as the Coachella Valley, and the southern part, the Imperial Valley. A portion of this bed dividing the Coachella and Imperial Valleys is known as the Salton Basin. The Imperial Irrigation District consists, generally, of lands of the Imperial Valley.

V

In its natural conditions, the entire Imperial Valley region was an unproductive desert. The annual rainfall averages 2 to 3 inches. The Colorado River and the Colorado River Delta east and south of the Imperial Valley are slightly above sea level.

From the delta, the land slopes gradually north and west toward the center of Imperial Valley, which is almost entirely beneath sea level. During occasional flooding of the Colorado River, the overflow waters would flow down the slopes of the delta northward into the bottom of the valley and the Salton Basin. Such overflow last occurred in 1905-1907. When such floods occurred, the flood waters would concentrate more or less in depressions and channels leading from the delta region into what is now known as the Salton Sea. These channels or depressions formed natural canals for diversion of the Colorado River's waters into Imperial Valley.

VI

Due to the sub-level topography of the Imperial Valley, it was recognized as early as the middle of the 19th century that irrigation by means of diversion and gravity flow from the Colorado River was feasible. In 1896, the California Development Company, a privately owned corporation, was organized under the laws of New Jersey for the purpose of diverting water from the river to irrigate arid lands in Imperial Valley and the Republic of Mexico. It was considered necessary at that time, in order to irrigate lands in Imperial Valley, to divert Colorado River water via the bed of an ancient overflow channel known as the Alamo River through Mexico and then back in a northerly direction into the United States.

VII

Upon a finding by the California Development Company that it could not, without special permission, purchase the arid lands it intended to irrigate in the Republic of Mexico, it organized a Mexican company in 1898 named La Sociedad de Yrrigacion y Terrenos de la Baja California. The stock of the Mexican company was wholly owned by the California Development Company. In 1900, the Mexican company held title to approximately 100,000 acres of land situated in Baja California.

VIII

Water was first diverted from the river through Hanlon's Heading, a temporary diversion point located a few hundred feet north of the Mexican border, into Imperial Valley in July 1901 via Alamo Canal, which followed the bed of the Alamo River.

IX

Hanlon's Heading, the first intake cut by the California Development Company, became clogged with silt by 1903. In or about 1903, the Mexican company was granted a concession by the Republic of Mexico which permitted it to divert water from the Colorado River in Mexico and deliver half of that water at an inland point on the international border for use in Imperial Valley. Second and third headings, situated south of the border, were built in 1904. The Alamo Canal, from its point of reentry into the United States, as well as the lateral canals through which water diverted from the river was ultimately distributed to land in the Imperial Valley, were owned by seven mutual water companies which were organized by the California Development Company. The stock of the mutual water companies was acquired by the individual landowners to whose land the water was supplied.

X

By 1903, through the distributive facilities constructed by the local mutual water companies, approximately 25,000 acres of valley lands were in irrigated cultivation, all as a result of diversions from the Colorado River. By the following winter, the irrigated acreage was increased to 100,000, mainly in grain. Some 181,191 were irrigated by 1910, 308,009 acres in 1916, and 413,440 in 1919 During the summer of 1904, some water users of Imperial Valley requested the Reclamation Service to consider the purchase of the works of California Development Company. For various reasons the request was denied.

XI

In the Fall of 1904, the California Development Company's heading in Mexico began to wash out. In 1905, the Colorado River scoured the Mexican cut to river dimensions, and in November of that year completely changed its course, sending a flood of water through the Alamo Canal and over the broad flat area of the Imperial Valley. As a consequence, for many months the entire flow of the river passed through the washed-out heading, through the Alamo Canal and into Imperial Valley, creating Salton Sea with a surface area of 330,000 acres, and threatening the entire valley with destruction. The surface of the Salton Sea, formerly nearly dry at an elevation of 273 feet below sea level, was raised to 190 feet below sea level. The efforts of the California Development Company to close the breach were unsuccessful. The Southern Pacific Company's tracks being endangered, the Southern Pacific Company advanced funds to the California Development Company to control the river and took controlling interest therein as security. By utilizing its own resources the Southern Pacific Company closed the breach in the west bank of the river and returned the river to its channel.

XII

Imperial Irrigation District was organized on July 25, 1911, under the laws of the State of California.

XIII

In June 1916, the interests of the California Development Company, which had been foreclosed by the Southern Pacific Company earlier that year, passed to Imperial Irrigation District.

XIV

On February 16, 1918, a contract was executed between the United States and the Imperial Irrigation District calling for cooperative investigation, surveys, and cost estimates relevant to a District proposal for the construction of an All-American canal to connect the arid lands in Imperial Valley with Laguna Dam. A subsequent contract between the same parties, dated October 23, 1918, provided for the District to include the data gathered under the contract of February 16, 1918, with other data which it would collect relating to a connection with Laguna Dam. The contract of October 23, 1918, was terminated by the contract of December 1, 1932, between the United States and the District, except for the District's obligation thereunder to make payments to the United States for the right to use Laguna Dam. In 1909, the Reclamation Service constructed Laguna Dam on the Colorado River, about 10 miles north of Yuma, Arizona, as a diversion structure for the South Yuma Reclamation Project.

XV

On November 24, 1922, the Colorado River Compact was signed by commissioners representing the States of Arizona, California, Colorado, Nevada, New Mexico, Utah and Wyoming. It became effective June 25, 1929.

XVI

In 1922-1923 the District acquired all of the mutual water companies that had been organized by California Development Company. Since that time and until the present, the District has performed the entire function of distributing the water supply to farm holdings in Imperial Valley.

XVII

Pursuant to the Act of December 21, 1928, 43 U.S.C. §617, commonly known as the "Boulder Canyon Project Act", the Secretary of the Interior was authorized to construct, operate and maintain a dam and incidental works in the mainstream of the Colorado River at Black Canyon or Boulder Canyon, a diversion dam known as the Imperial Dam, and a canal and appurtenant structures connecting Imperial Dam with the Imperial and Coachella Valleys, known as the

All-American Canal. The Boulder Canyon Project Act became effective June 25, 1929, by Presidential Proclamation (46 Stat. 3000, 1929).

XVIII

At the time the Project Act took effect on June 25, 1929, the Imperial Irrigation District had a distribution system comprising 612,658 acres, which distribution system was wholly financed, constructed, maintained and operated by local means. The distribution system network then, as of June 25, 1929, comprised approximately 1,700 miles of main and lateral canals, providing for the irrigation by waters diverted by it from the Colorado River of approximately 424,000 privately owned acres, computed on a single crofting basis. All of said acreage was, as of June 25, 1929, being irrigated by and with Colorado River water.

XIX

On December 1, 1932, the United States and the District, acting pursuant to the Project Act entered into a contract. The 1932 contract with Imperial Irrigation District provided for construction of a main canal connecting Imperial and Coachella Valleys, but because of conflicts not material to this case, Coachella Valley landholders were not included in Imperial Irrigation District, but formed a separate district, the Coachella Valley County Water District, which executed a similar, though independent, contract with the United States, dated October 15, 1934, calling for construction of water delivery structures and delivery of water to lands in Coachella Valley.

XX

Following execution of the All-American Canal Contract, an in rem action, under the caption DuBois v. All Persons, was commenced in the Superior Court of the State of California for the County of Imperial for a confirmation of the proceedings on the part of the District for the authorization of the execution of the contract. At or about the same time, a landowner in the District, Charles Malan, filed an action in the same court against the District and its directors to enjoin the expenditure of any money in furtherance of said contract. Malan also filed an answer in the confirmation action initiated by the District. In both pleadings, Malan alleged the invalidity of the All-American Canal Contract, in part, because of his contention that Section 5 of the Reclamation Act of 1902 would apply under the Contract and would deprive him of his water rights, without compensation, for all his lands in excess of 160 acres.

XXI

The Malan action was consolidated with the District's in rem confirmation action. Evan T. Hewes, new President of the District was substituted in place of John DuBois, so that the caption of the consolidated action became Hewes v. All Persons. On July 1, 1933, judgment was entered in the Hewes case confirming the execution of the Contract. In its opinion, the court held that "section 5 of the Reclamation Law does not apply". An appeal was taken and thereafter dismissed, and on February 26, 1934, said judgment became final.

XXII

Pursuant to the Project Act, the government constructed Hoover Dam at Black Canyon, and incidental works, completing the construction of said dam in 1935. On February 1, 1935, the Secretary began storing water in Lake Mead, the reservoir created by Hoover Dam, and since that date has continuously operated and maintained Hoover Dam for the purposes specified in the Project Act.

XXIII

After the Project Act was enacted and became effective, construction of Hoover Dam was initiated on September 17, 1930, and water was first impounded on February 1, 1935. The first power was generated on September 11, 1936. Hoover Dam is the principal structure of the Lower Basin mainstream development; impounding the waters of the Colorado River to form Lake Mead, it is situated in Black Canyon on the main channel of the Colorado River 330 miles above the upper Mexican border. This is the world's highest dam, a concrete arch, gravity-type structure having a height of 726.4 feet and a hydraulic height of 575.8 feet. Total original, unsilted storage capacity of Lake Mead was 32,359,000 acre feet. At elevation 1229, the maximum surface area is 162,700 acres. The present usable capacity is approximately 27,200,000 acre feet.

XXIV

Pursuant to its 1932 contract with the District, the United States constructed Imperial Dam and the All-American Canal, commencing construction in August 1934. In 1940, the United States, while retaining the care, operation and maintenance of these facilities, commenced delivering and diverting stored river water at Imperial Dam and carrying such water through the All-American Canal for use within the District. Also pursuant to the contract, the Secretary transferred to the District, on March 1, 1947, the care, operation and maintenance of the main branch of the All-American Canal west of Engineer Station 1098.

XXV

Since 1942, the District's entire water supply from the river has been released from storage in Lake Mead, diverted at Imperial Dam, and carried through the All-American Canal. Title to the Imperial Dam and the All-American Canal, as well as to Hoover Dam, is in the United States.

XXVI

On March 4, 1952, the contract between the United States and the District was amended by a supplemental contract. On May 1, 1952, the Secretary transferred to the District the care, operation and maintenance of the works east of Engineer Station 1908.

XXVII

The All-American Canal System, as provided for in the contract of December 1, 1932, was declared completed by the Contract of March 4, 1952, between the United States and the District. Repayment of construction charges commenced on March 1, 1955. The District's financial obligation was fixed at approximately $25,000,000 repayable in forty annual installments, without interest. All such payments to date have been made from the proceeds from the sale of electrical energy generated by facilities, costing the District approximately $15,000,000, utilizing the hydro-electrical potential of the All-American Canal. The cost of Hoover Dam and powerplant, estimated in 1965 as $174,732,000, is being repaid with interest at 3 percent primarily from power revenues at the dam. One exception to this is that $25,000,000 of the cost of the dam, which was allocated to flood control, will be carried interest free by the government until 1987.

XXVIII

In 1928 the population of the District was approximately 60,000, and it remained at that level until the 1950's. During the past decade, the population has been approximately 75,000. The annual value of crops now produced in the Imperial Valley is approximately $300,000,000. The entire economy of the Imperial Valley is based on farming and farm support industries.

XXIX

Somewhere between 45 and 50% of irrigated farms in the District are owned by persons or corporations which do not reside in the Imperial Valley. In the period 1920-1928 somewhere between 35 and 50% of the District's farms were owned by non-residents. Similar percentages of non-resident ownership existed in the Imperial Valley during the intervening years.

XXX

The present value of farm land in Imperial Valley ranges from $600 to $1200 per acre. When the Secretary of the Interior becomes obligated to prohibit the District from delivering irrigawater to lands owned by non-residents, there will be an immediate and substantial decline in the market value of farm land.

XXXI

The Irrigation District, as a result of the putting into operation of the All-American Canal, ceased using the Alamo Canal as a vehicle for the transportation of water from the Colorado River to users within the District in 1942. All interests of the District in and to the Alamo Canal and its physical assets, both in California and in Baja California, were sold in 1962.

XXXII

The District in 1966 diverted and distributed to landowners within the boundaries of the District water for the irrigation of approximately 437,000 acres.

XXXIII

In 1963, field crops and livestock production, mainly on large-scale farms, had a total value of over $168,000,000, equal to 80% of the value of Imperial County's total agricultural production.

XXXIV

At no time subsequent to the commencement of delivery of Colorado River water pursuant to the Boulder Canyon Project have the government defendants sought to enforce the residency requirement of the Reclamation Act.

XXXV

There is no one consistent, reasonable administrative interpretation of Section 5 of the Reclamation Act which would warrant the court's recognition as being controlling in this action.

From the foregoing Findings of Fact the court draws the following

CONCLUSIONS OF LAW

I

This court has jurisdiction of the cause by reason of 28 U.S.C.A. §1361 which confers jurisdiction over any action in the nature of mandamus to compel an officer or employee of the United States, or any agency thereof, to perform a duty owed to the plaintiff.

II

Defendant Rogers C. B. Morton is Secretary of the Interior of the United States and is charged with the duty of carrying out the provisions of the Reclamation Act of June 17, 1902, and is charged with the duty of carrying out the operative provisions of the Reclamation Act of June 17, 1902, and all acts amendatory and supplementary thereto by reason of Section 10 of the Act of June 17, 1902 (32 Stat. 390. 43 U.S.C. §373). Defendant Ellis L. Armstrong is Commissioner of Reclamation of the United States and is charged with the duty of administering the Reclamation Act under the supervision and direction of Defendant Morton pursuant to 43 U.S.C. §373a. Defendant Edward A. Lundberg is Regional Director of the Bureau of Reclamation of the United States for Region 5 and is in charge of reclamation projects within the territorial jurisdiction of this court.

III

The government defendants owe a duty to plaintiffs to enforce the residency requirement of Section 5 of the Reclamation Act in the Imperial Valley of California.

IV

Section 5 of the Reclamation Act of 1902, 32 Stat. 389, 43 U.S.C. §431, provides in pertinent part as follows:

> "No right to the use of water for land in private ownership . . . shall be made to any landowner unless he be an actual bona fide resident on such land, or occupant thereof, residing in the neighborhood of said land ...."

By reason of Section 14 of the Boulder Canyon Project Act, 45 Stat. 1065, 43 U.S.C.A. §617m, the land limitation provisions of reclamation law are made applicable to the construction, operation and management of the works authorized under the Boulder Canyon Project Act, including the residency requirement of Section 5 of the Reclamation Act of 1902.

V

The requirement of residency of Section 5 of the Reclamation Act of June 17, 1902, is a prerequisite to the receipt of Boulder Canyon project water in the Imperial Valley and imposes a condition on the receipt of such water.

VI

The intervention by landowners is a class action intervention in behalf of all non-resident owners of irrigable land in Imperial Irrigation District, Rule 23(b)(1) B, Fed. R. Civ. P.

VII

Plaintiffs have standing to bring this action.

VIII

Section 46 of the Omnibus Adjustment Act of May 25, 1926, 44 Stat. 649, 43 U.S.C. §423e does not supersede or annul the residency requirement of Section 5 of the Reclamation Act.

IX

There has been no "charge" for water, or for the use, storage or delivery of water for irrigation or water for potable purposes in the Imperial Valley as prohibited by Section 1 of the Project Act, 43 U.S.C. §617.

X

Section 6 of the Project Act, 43 U.S.C. §617 and Article 8 of the Colorado River Compact are not in conflict with the residency requirement of Section 5 of the Reclamation Act, for the reason that Section 6 of the Project Act and Article 8 of the Compact are conditioned upon the requirement of residency as required in Section 5.

XI

The in rem judgment in Hewes v. All Persons is not an adjudication that the residency requirement of Section 5 of the Reclamation Act of 1902 has no applicability to privately owned, irrigable lands in the Imperial Irrigation District.

XII

The final in rem judgment in Hewes v. All Persons is not res judicata as to plaintiffs and said judgment does not bar their prosecution of the within action.

XIII

The administrative interpretation by the government defendants in administering Section 5 of the Reclamation Act in the Imperial Valley by not enforcing the residency requirement is not now, and has never been reasonable. The failure to apply the residency requirement is contrary to any reasonable interpretation of the reclamation law as a whole, and it is destructive of the clear purpose and intent of national reclamation policy.

XIV

The present and past interpretation of Section 5 of the Reclamation Act by the government defendants is not controlling as to the proper interpretation as to the present applicability of the residency requirement of Section 5 of the Reclamation Act of 1902. Administrative practice cannot thwart the plain purpose of a valid law and prior administrative practice does not remedy an absence of lawful authority.

XV

Landowners allegedly relied on the administrative interpretation of the relevant statute to the effect that the residency requirement of Section 5 of the Reclamation Act of 1902 did not apply to Imperial Valley Irrigation District. This Court finds that the administrative interpretation was not reasonable and such interpretation is not controlling upon this Court.

XVI

Congress did not acquiesce in and ratify the administrative interpretation of the residency requirement (non-enforcement) by the Department of the Interior.

XVII

The existence of present perfected rights is within the exclusive jurisdiction of the Supreme Court. (Arizona v. California, 376 U.S. 340, 341, 383 U.S. 268). If this Court had jurisdiction to determine this issue, it would hold that private landowners within the Imperial Valley Irrigation District have no vested and present perfected rights to a continued supply of Colorado River water for irrigation purposes precluding application of the residency requirement of Section 5 of the Reclamation Act of 1902.

XVIII

The residency requirement of Section 5 of the Reclamation Act is a continuing restriction upon the right to receive project water, not only until the completion of repayment of construction costs of the All-American Canal but continuing in perpetuity until Congress changes the reclamation law by appropriate statutory enactment.

XIX

The motion by landowner defendants and the government defendants for reconsideration of this court's Partial Summary Judgment of November 23, 1971, is granted and the partial summary judgment is affirmed.

XX

The matters alleged in Paragraphs 13, 27, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48 and 49 of the landowners' Answer in Intervention are insufficient as a matter of law to constitute a sufficient defense to the within action. Accordingly, plaintiffs' motion to strike said paragraphs and all evidence offered at the trial in support of the allegations of said paragraph is hereby granted.

Done and dated this 27th day of September, 1972.

W. D. Murray
W. D. Murray
Senior United States District
Judge.

Senator **Stevenson**: The hearings are adjourned until call of the Chair.

(Whereupon, at 5:50 o'clock p.m., Thursday, January 13, 1972, the hearing was adjourned.)

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